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MEMORANDUM FOR: NIO/CT
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Deputy Comptroller
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FROM: [redacted] STAT
Deputy Director for Legislation
Office of Congressional Affairs

SUBJECT: Senate Passage of "Diplomatic Security and Anti-terrorism Act of 1986

1. Attached for your information please find copies of various pages from the Congressional Record of June 25, 1986 (pp. S8403 - S8445, S8458 - S8459, S8462 - S8466, and S8470 - S8474). They reflect Senate consideration and passage of the Senate version of H.R. 4151, the "Omnibus Diplomatic Security Act of 1986". The bill now goes to Conference. Highlights of the Senate floor action are as follows:

2. Control of Overseas Staffing Levels: Secretary of State's Authorities (p. S8404). Section 103 (b)(2) of the version of the bill which the Senate Foreign Relations Committee brought to the floor and which was ultimately adopted by the Senate provides that the Secretary of State shall "establish" appropriate overseas staffing levels for all Federal agencies with activities abroad. The actions of the Committee and the Senate in this regard were contrary to the assurances which the Agency had received from the Committee and the Administration. We are in the process of working with the conferees in an attempt to limit this authority to "coordination" of staffing levels insofar as it applies to the Agency.

3. Control of Overseas Staffing Levels: "Savings" Clause (p. S8404). Section 106 (b) of the bill as originally passed by the House ("House I") was, in effect, a "savings" clause which could have ameliorated any potentially adverse impacts of Section 103 (b)(2). The initial Senate version of Section 106 (b) ("Senate I") was itself somewhat modified by the Committee so as to undercut this "savings" potential. The Committee, however, had indicated to the Agency that while the "House I" language would not be restored, the "Senate I" language would again be modified ("Senate II") so as to restore somewhat its "savings" potential. Contrary to these assurances, however, the version of Section 106 (b) brought to the Senate floor by the Committee and ultimately passed by the Senate was not "Senate II",but rather "Senate I". We are now in the process of working with the conferees in an attempt to restore "House I".

4. Extraterritorial Jurisdiction for Violent Crimes Committed Against United States Nationals Abroad (p. S8435). The Senate adopted an amendment by Senator Spector to incorporate into the bill the provisions of S.1429, his bill to vest United States courts with extraterritorial jurisdiction over violent crimes against United States citizens overseas. The bill had previously passed the Senate overwhelmingly on its own and is currently stalled in the House Judiciary Committee.

5. NATO Cooperation on Terrorism (p. S8458). The Senate adopted an amendment calling upon the President to request NATO to establish a committee to study the problem of terrorism and recommend solutions to the member nations.

6. Records Checks of Nuclear Power Plant Employees (p. S8414). The Senate adopted an amendment by Senators Leahy and Denton to incorporate into H.R. 4151 the provisions of S. 274, Senator Denton's bill to require a fingerprint check of state and local police records of individuals to be employed in nuclear power plants.

7. Forfeiture of Proceeds from Espionage Activities (p. S8425). The Senate adopted an amendment offered by Senator Stevens to incorporate into the bill the provisions of his bill, S. 1654, which provides for the forfeiture of certain proceeds derived from espionage activities.

8. Office Equipment/Telecommunications/Computer Security Funds "Earmarked" (p. S8411). The Senate adopted an amendment offered by Senators Durenburger and Leahy to "earmark" certain funds, otherwise authorized by the bill, for the "protection of classified office equipment, the expansion of information systems security and the hiring of American systems managers and operators for computers at high threat locations."

9. Diplomatic Security Authorization Funding Levels - Equitable Funding Levels for Non-State Agencies. The version of the bill which passed the Senate includes a provision, Section 401(c), which requires the Secretary of State to ensure that an "equitable level of funding is provided for the security requirements of other foreign affairs agencies". This mandate is, however, made contingent upon the phrase, "Based solely on security requirements and within the total amount of funds available for security...".

10. "Wilson-Terpil" Provision - Restrictions on Transfer of Military & Intelligence Services to Designated Countries (p. S8407). Section 503 of the Senate-passed legislation is a provision, originating in the House version of the legislation, which would restrict the transfer of certain intelligence and military services to countries designated by the Secretary of State, the so-called "Wilson-Terpil" provision. Subsection (i) contains an exception for activities of the United States Government, including intelligence activities.

11. Withdrawal of "Victims of Terrorist Compensation" Amendment (pp. S8430 - S8432). Senator Mathias attempted to offer as an amendment to the bill the title of the House version of the bill entitled "Victims of Terrorism Compensation" which the Senate Foreign Relations Committee had deleted in its "markup" of the House version. The Senator withdrew his amendment, however,

after receiving assurances that the issue would be "considered" in Conference (S8434). This indicates that in Conference the Senate may ultimately drop its opposition to this title, thereby allowing it to be included in the final version of the bill sent to the President for signature.

12. Afghanistan Resolution (p. S8462). The Senate adopted an amendment offered by Senator Byrd expressing the sense of Congress that the Secretary of State should examine the actions of the Soviet forces against the Afghan people to determine whether or not they are engaging in genocide and, if so, to review the merits of continuing to recognize the existing Afghan government.

13. Increased Language Training of Foreign Service Officers (p. S8419). The Senate adopted an amendment expressing the sense of the Senate that the Secretary of State should substantially strengthen the foreign language capabilities of foreign service officers.

14. We are continuing to monitor the bill as it enters Conference and, as noted above, will work to ensure that the Agency's equities are protected in the conference.

STAT

Attachment
as stated

The Commission has investigated more than a dozen incidents of suspected sabotage by plant employees. The incidents involved critical valves in the wrong position, miswired electrical equipment, and other problem areas. A Commission report indicated that between 1974 and 1982 there had been 32 possible deliberate acts of damage at 24 operating reactors and reactor construction sites, including the dozen reported since 1980.

I would like to offer some examples of these incidents, Mr. President, to give us a more immediate familiarity with them.

Examples of incidents include instrument valves apparently deliberately mispositioned in a way that knocked out the steam generator feed-water pump thus forcing the operator to reduce power immediately to keep the reactor from going into emergency shutdown. That incident happened on May 1, 1982, at the Salem atomic power station in southern New Jersey. Another example at the Beaver Valley plant near Pittsburgh, a valve normally left in an open position was found closed and the chain and padlock that normally secured the valve in the open position were missing. With the valve closed, emergency cooling water would not have been available for high pressure injection into the core.

The Commission reported: "Since there were no indication of unauthorized entry to the sites of these incidents, they are thought to have involved insiders." A 1983 Commission memorandum concluded that: "The major threat of sabotage to a nuclear plant is associated with the insider." More stringent employee screening procedures might have prevented many incidents of that kind.

Mr. President, currently, the FBI provides criminal history records checks only to Government or private entities specifically authorized by statute. The FBI originally disseminated criminal history records to State, city, and county officials if authorized by statute, ordinance, or rule for applicants for employment or for a permit or license, as well as for federally insured banks. However, in *Menard* v. *Mitchell*, 328 F. Supp. 718, 725-728 (D.D.C. 1971), rev'd. on other grounds, 498 F.2d 1017 (D.C. Cir. 1974), a U.S. District Court interpreted the statute which authorizes the FBI to collect criminal records (28 U.S.C. 534) as containing an implicit prohibition against dissemination to private entities and to State and local noncriminal justice agencies. The FBI, accordingly, amended its regulations to prohibit criminal history record dissemination to the general public or private sector employers, except in limited circumstances not relevant in this case.

The Menard decision has, however, been partially superseded. Congress in Public Law 92-544, authorized the FBI to disseminate criminal history records to officials of federally chartered or insured banking institutions and to officials of State and local governments for purposes of employment and licensing decisions, if authorized by State statute and approved by the Attorney General. Following Public Law 92-544 Congress also authorized dissemination to private entities engaged in certain securities transactions, such as brokerage houses (15 U.S.C. section 78(F)).

Mr. President, to prevent nuclear power facilities from becoming targets of terrorists, extortionists, or saboteurs, the licensees must be given access to the data contained in the criminal history files of the FBI.

The criminal history records contain full fingerprint identification cards for individuals who have been arrested by Federal, State or local authorities. It is important to note that identification of the person arrested is based on a full set of fingerprints rather than a name, Social Security number or other personal identifier. Currently, the FBI maintains over 22 million arrests records broken into 1,200 fingerprint classification codes.

Mr. President, because these records are based on a full fingerprint identification, the FBI, by comparing fingerprints, can positively identify a record as belonging to a certain individual thereby ensuring that the person determining employment suitability does not attribute a criminal record to the wrong person. This procedure avoids problems which could occur if an unsophisticated noncriminal justice user of criminal record information undertook a criminal record check based on an individual's name and other identifiers. With a name check it is possible that a record could be attributed to the wrong person or, by merely, using an alias, a criminal record might never be identified.

While the arrest data contained in these criminal history records is generally accurate, it is often incomplete. The FBI requires that law enforcement authorities submitting arrest data subsequently submit information concerning the disposition of the arrest. Despite this requirement, FBI experts have informed the Senate Judiciary Committee that this disposition data does not get forwarded to the FBI in close to 50 percent of the cases.

Because of the imcompleteness of this data, the Senate Judiciary Committee was faced, during consideration of the original bill, with requiring the withholding from the Commission of arrest data unaccompanied by disposition. This would protect the privacy and due process rights of prospective employees, but it would risk the failure to provide the operator important and relevant information concerning the prospective employee. Alternatively, the Senate Judiciary Committee could authorize the FBI to provide a complete arrest history record to the Commission, provided that the Commission institutes a program to protect the rights of prospective employees to correct and supplement the record and to limit the redissemination of the information supplied to the operator. After weighing the pros and cons of each approach, the Senate Judiciary Committee chose the latter course.

I should note, however, Mr. President, that in choosing the latter course, Senator PATRICK LEAHY and myself added specific language to the original bill to protect the civil liberties of the individuals to be fingerprinted. That is, the original bill and the amendment specifically directs the Commission to prescribe regulations for the taking of fingerprints and for establishing the conditions for both using the information and limiting the redissemination of the information provided by the record check in a manner limited to the purposes contained in the act. The legislation gives discretion to the Commission to implement a practical program, through regulation, for carrying out the purposes of the act. Because of the possible incompleteness of the FBI's criminal history records mentioned earlier and because of the important due process and privacy interests of prospective employees, it was Senator LEAHY's and my belief that the regulations prescribed by the Commission shall contain the following minimum requirements:

First, individuals who are asked to submit fingerprints under the program will be notified that the fingerprints will be used to run a criminal history records check through the FBI;

Second, individuals who are subject to fingerprinting will be provided with an opportunity to complete and correct the information contained in the FBI's criminal history records prior to any adverse job action being taken; and

Third, the Commission will establish procedures to ensure that the information provided to the plant operator will only be used to determine whether the person is fit to be given unescorted access to the nuclear facility, and for no other purpose.

Mr. President, the original bill and the amendment have wide support. In written testimony endorsing S. 2470—the 98th Congress version of S. 274—Herzel H.E. Plaine, general counsel of the Nuclear Regulatory Commission, noted that the bill represented a means of facilitating nuclear reactor licensee efforts to obtain criminal history records and of promoting uniformity in industry-conducted personnel screening programs.

In testimony submitted to the Senate Judiciary Subcommittee on Security and Terrorism on June 13, 1985, Arthur E. Lundvall, vice president of Baltimore Gas & Electric Co., and president of the Nuclear Power Executive Advisory Committee of the Edison Electric Institute, noted that:

Nuclear powerplants have effective security programs that may include a system for

psychological evaluation of potential employees and the conduct(ing) of a background investigation that involves limited State and local police record checks. This system would be significantly improved with the enactment of S. 2470 (S. 274) since it would provide a uniform system for background investigation throughout the industry.

He goes on:

Each individual's complete criminal history will be reviewed and we can be assured that, to the maximum extent possible, only stable, reliable, and law-abiding people have unescorted access to vital areas of our nuclear powerplants.

One other piece of testimony by the manager of Corporate Security, Alabama Power Co., Mr. David Hinman, submitted to my Subcommittee on Security and Terrorism expressed concern that the failure of the industry to obtain criminal history records based on fingerprint identification could permit terrorists and would-be saboteurs an opportunity for employment at nuclear plants, using falsified birth records and other falsified credentials. Mr. Hinman concluded by endorsing this amendment and stating that it is imperative that access to such records be provided to assure that employment in sensitive positions be conducted based on full information as to the trustworthiness of the individual.

Mr. President, the amendment which is endorsed by the Commission, the Department of Justice, and private industry, would help to ensure the safety of nuclear powerplants, and thereby protect our citizens and our environment from disasters on the scale of Chernobyl. It is urgently needed to safeguard the security of the United States and the welfare of the American people.

It is my understanding, Mr. President, that this amendment has the support of the distinguished chairman of the committee and the ranking member and I understand it has been cleared by both sides and is acceptable.

THE NUCLEAR POWERPLANT SECURITY

Mr. LEAHY. Mr. President, I am very pleased to be an original cosponsor of this amendment. I congratulate my colleague and chairman of the Subcommittee on Security and Terrorism, Senator DENTON, for his initiative in sponsoring this legislation. I was proud to work closely with him on the final draft which was passed overwhelmingly by the Senate on August 3, 1985.

There are currently 85 nuclear reactor plants that produce and are licensed for full power in the United States. We recently saw the great harm that just one of these plants can cause, when the nuclear reactor at Chernobyl exploded killing and contaminating dozens of people in the Soviet Union. In the days following that accident, the milk from cows in my own State of Vermont, half way around the world, was found to contain high levels of radiation.

The Nuclear Regulatory Commission has investigated dozens of incidents of suspected sabotage by plant employees. Between 1974 and 1982, there were 32 possible deliberate acts of damage at 24 operating reactors and reactor construction sites. Several of those incidents could have resulted in a catastrophe at least on the scale of Chernobyl. All of those incidents were believed to have involved insiders.

At a time when terrorism is on the minds of most Americans, it would be inexcusable for us not to do everything reasonably possible to protect our nuclear powerplants from sabotage.

Under current law, most background checks by nuclear powerplant licensees are limited to State and local files. Those files do not include information about a person's criminal record, if any, in other parts of the country. By allowing nuclear plant operators to have access to FBI criminal records files, they would be better able to determine who should be granted unescorted access to nuclear facilities.

That is, very simply, what this legislation does. The nuclear plant licensee would bear the cost of fingerprinting and of the criminal records check, and could use the information obtained only for the limited purpose of determining if the person is fit to receive unescorted access to the plant. Individuals who are subject to fingerprinting would be given an opportunity to correct and complete any information contained in the FBI's records prior to any adverse job action being taken.

Mr. President, this amendment is drafted narrowly to accomplish its important purpose without unreasonably infringing on individual civil liberties. It is absolutely necessary legislation and I am proud to have taken part in the final draft. I urge my colleagues to support it.

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Mr. LUGAR. Mr. President, I wish to identify our side strongly with the amendment offered by the distinguished Senator from Alabama. This measure, as the Senator has pointed out, gathered 44 cosponsors when it was passed by voice vote unanimously by the Senate last year. It is an important measure. It is illustrative of the vital work performed by the Judiciary Committee's Subcommittee on Security and Terrorism, which is chaired, of course, by Senator DENTON.

This legislation, in my judgment, adds an important tool to our efforts to protect weapons grade nuclear materials from falling into the wrong hands. It was recognized clearly by the Senate last year. In my judgment, it should be recognized again today. Our side endorses the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this seems like an excellent amendment. There is no amendment to it on our side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2174) was agreed to.

AMENDMENT NO. 2175

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2175.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 124, between lines 9 and 10, insert the following new section:

SEC. 504. MANAGEMENT OF ANTI-TERRORISM ASSISTANCE PROGRAMS.

(a) Section 573(d) of the Foreign Assistance Act of 1961 is amended as follows:

Paragraph (4) is amended to read as follows: "(4)(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in subsection (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to anti-terrorism assistance under this chapter; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notified the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(C) No shock batons or similar devices may be provided under this chapter."

Mr. LUGAR. Mr. President, the purpose of this amendment is to replace the present $350,000 worldwide cap on equipment and commodities of the Anti-Terrorism Assistance Program with a cap equal to 25 percent of the appropriated amount.

The Anti-Terrorism Assistance Program, enacted into law 3 years ago, has established itself as a valuable addition to our Nation's effort to defend itself and its citizens against terrorist attack.

The program has created valuable links between professionals in our Government with antiterrorism responsibilities and their counterparts overseas. The potential benefits of these contacts must not be underes-

tablished. Should some future incident occur where American lives are endangered overseas, these linkages could expand dramatically the options available to the President in responding.

When enacted, Congress emphasized that the ATA Program was to emphasize training of foreign security forces; it was not to be an equipment transfer program. Congress placed a worldwide cap of $325,000 in equipment and commodities that could be provided under the program.

This amendment retains that emphasis. It removes the $325,000 cap on equipment and commodities and puts in its stead a cap of 25 percent of the total appropriated amount. That means that at a minimum, 75 percent of ATA funds will go for training.

The administration has asked for this change after having had experience with the ATA Program. They have discovered that few benefits derive from training an individual on equipment here in the United States which is then unavailable upon his return home. The problem is especially acute for those countries participating in the program which are experiencing severe financial problems.

As Congress has increased funds for the ATA Program, the $325,000 munitions limit has begun to constrain the training program itself. Several countries have faced immediate needs for airport security programs and have consumed most of the equipment funds. This amendment provides an appropriate ratio of equipment to training without altering Congress' intent that the ATA Program emphasize training.

In addition the amendment expands the categories of equipment which may be provided to include underwater and diving equipment, armor plating and structural materials for defense purposes, and secure communications gear.

It is my hope this amendment will be readily adopted.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, there is no objection to this amendment on our side. I suggest we proceed to vote on it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2175) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2176

(Purpose: To make available for use within the United States the United States Information Agency's film "The March")

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], on behalf of Mr. KERRY, proposes an amendment numbered 2176.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 129, after line 3, add the following new section:

SEC. 702. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "THE MARCH".

Notwithstanding section 207 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "The March"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

On page 91, in the table of contents, after the item relating to Section 701, insert the following new item:

"Sec. 702. Distribution within the United States of the USIA film entitled "The March".

Mr. LUGAR. Mr. President, I am offering this amendment on behalf of Senator KERRY, a distinguished member of the Foreign Relations Committee. It provides that a film entitled "The March" might be shown principally on a television station in Boston, MA. Specific requirement is made under the act that Congress must rule on these exceptions. That is the purpose of the amendment today. On our side, we are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this seems like an excellent amendment and we support its passage.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2176) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2177

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2177.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In the appropriate place in the bill insert the following amendment:

SEC. . (a) In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such part) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised in coordination with the office of the Department of State rsponsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961.

(b) This section shall take effect on the date of enactment of this Act.

Mr. LUGAR. Mr. President, this amendment responds to an urgent request from the Government of Egypt for United States help in increasing security at Cairo Airport.

Airport security in the region is a high priority for the Egyptians and for the United States but the Egyptians do not have the financial resources to upgrade.

The United States Federal Aviation Administration [FAA] is working with the Egyptians to upgrade security and has identified $5 to $9 million in needed equipment and training.

The amendment would permit economic support funds [ESF] already allocated for commodity procurement in Egypt to be used to procure nonlethal airport security equipment such as x-ray machines and bomb disposal equipment, perimeter fencing, vehicles, closed circuit television systems, and so forth.

The procurement needs exceed the funding available under the antiterrorism chapter of the Foreign Assistance Act. The amendment would simply permit utilization of the ESF in Egypt for this purpose.

To ensure coordination of antiterrorism activities, the amendment requires that the procurement of equipment be coordinated with the office in the Department of State responsible for administering the antiterrorism program.

The amendment is Egypt-specific. It does not allow similar use of ESF worldwide. If there are similar needs

elsewhere, the administration still must come back to Congress for additional authorization.

I know of no opposition to the amendment on our side. We are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this is an excellent amendment. On behalf of the minority, I suggest its passage.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2177) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2178

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2178.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

Sec . INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY

The Congress encourages the President to continue to seek an agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security standards and could include—

(1) seaport screening of cargo and baggage similar to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. . MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) REPORT ON PROGRESS OF IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by December 31, 1986, on the progress of the International Maritime Organization in developing recommendations on Measures to Prevent Unlawful Act Against Passengers and Crews on Board Ships.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee on the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

Mr. LAUTENBERG. Mr. President, this amendment has been cleared on both sides.

This amendment encourages the President to continue to seek an agreement through the International Maritime Organization [IMO] on matters of international seaport and shipboard security. It specifies that such an agreement would establish seaport and vessel security standards, and could include provisions on seaport screening of cargo and baggage, and security measures to restrict access to cargo, vessels, and dockside personnel.

The amendment also requires that the Secretaries of Transportation and State make a detailed, joint report to Congress by December 31, 1986 on the IMO's progress in developing such an agreement. The importance of such an international agreement cannot be overstated.

Mr. President, 1½ million Americans will travel on cruise ships this year, armed with only American passports. As passengers on the *Achille Lauro* learned, that is not enough. The *Achille Lauro* hijacking dramatized how vulnerable cruise passengers are to the ruthless tactics of terrorists. Nothing stopped the terrorists from smuggling weapons aboard the *Achille Lauro* while it was docked at one of its ports of call. No security measures prevented those terrorists from turning hundreds of dream vacations into nightmares. As Viola and Seymour Meskin, constituents of mine from New Jersey, and passengers on the ill-fated *Achille Lauro* testified before the House Merchant Marine Subcommittee, no one checked their bags or their person at any time before or during the cruise. The *Achille Lauro* was a floating invitation to terror. And there are more ships like it.

Before the *Achille Lauro* provides deadly inspiration to other terrorists, security aboard cruise ships must be improved. One life is too many to lose to terrorism.

Fortunately, until now, shipboard terrorism has not been as common as that directed at airlines. But cruise and cargo ships are large, slow moving means of transportation. They make ideal targets for major acts of terrorism and war. Others are undoubtedly watching to see if security improves in the wake of the *Achille Lauro* incident. It is in the interest of passengers, shipowners, and nations to make ships as secure as possible.

Currently, no Federal or international laws require that security measures be taken to protect ports, vessels, passengers, or crew from incidents of terrorism. Though many cruise ships and ports take such measures voluntarily, many do not. A cruise ship passenger simply cannot rely on the fact that the particular ship he or she boards will be safe.

Passing U.S. laws requiring stricter security on ships, while desirable, must be accompanied by similar action on an international scale. The cruise ship industry in the United States controls only two ships, with a third coming into operation within months. Most cruise ships are foreign-flag and foreign operated. Real improvements in cruise ship security will come only with the adoption of international safety standards. To reach this goal, we need cooperation on an international scale. Such cooperation has already begun at the international level.

The International Maritime Organization [IMO], a U.N. agency whose charter directs it to aid cooperation among governments on matters affecting shipping, has discussed the issue of maritime security at several meetings. IMO's Maritime Safety Committee has begun to draft international safety standards for shipboard security. If such standards are completed by the Maritime Safety Committee, and accepted by all IMO's members, they will go a long way to fulfilling the need for a workable international agreement on seaport security.

An international seaport security agreement will increase safety for the traveling public by requiring that countries observe agreed upon international standards to prevent terrorists from gaining a foothold on cruise and passenger ships. Measures that could be adopted to increase security range from instituting seaport screening of cargo and baggage to requiring additional security on board cruise ships. Other measures could include enacting international criminal sanctions against terrorists who seize or attempt to seize ships.

Cruise passengers, seeking relief from the wear and tear of ordinary international travel in the leisurely pace of a cruise ship would gladly endure some inconvenience in return for peace of mind on their cruise. As Viola and Seymour Meskin testified from firsthand experience, whatever it takes to ensure that cruise passengers are safe would be a great improvement over being hijacked.

Mr. President, the best tribute to the bravery of the *Achille Lauro* hostages, and to the life of Leon Klinghoffer, is to take strict precautions to assure that their experiences are not repeated. While the United States cannot act alone, we can lead the way. I urge my colleagues to adopt this amendment.

I yield back the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we wish to commend on our side the distinguished Senator from New Jersey for a thoughtful amendment. We are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Having been a delegate to the IMO, which was the IMC, Intergovernmental Maritime Commission, I have been following its work through the years. I think it is eminently suited to take on this study and this report. The amendment is excellent. For our side of the aisle I recommend approval.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LAUTENBERG. I thank the managers of the bill for their support. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 2178) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2179

(Purpose: To urge the Secretary of State to substantially strengthen the foreign language skills of the U.S. Foreign Service)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2179.

Mr. SIMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following new section:

SEC. . It is the sense of the Senate that the Secretary of State substantially strengthen the foreign language training of foreign service officers and other diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills throughout a foreign service officer's career.

Mr. SIMON. Mr. President, this is an amendment I have discussed with the chairman of the committee and the ranking member. I appreciate their cooperation on this.

It is an amendment that stresses the sense of the Senate that we have to strengthen our foreign language expertise in the Foreign Service. We have the only Foreign Service in the world where someone can get into the Foreign Service without speaking a foreign language. And it is costing us in all kinds of ways.

Just recently the diplomatic message the United States intercepted from Libya warning of the attack on the West German discotheque sat untranslated for several days because of the unavailability of someone to translate the telegram from Berber to English. One of the complaints of Yurchenko, the recent defector from the Soviet Union, who went back to the Soviet Union, was there was no one here with whom he could speak in Russian.

We had recently the case of the Ukrainian sailor where we had a language difficulty. At the U.S. Embassy in Pakistan right now, no one speaks Pashto, the language spoken by over 20 million tribesmen in Afghanistan.

At the U.S. Embassy in Manila where we have 1,500 employees, we have only one, the economic attaché, who speaks Tagalog. That happens to be the language spoken by the majority of the people in the area where you have the Communist revolt right now. Totally, in the Foreign Service we have only 30 fully fluent speakers of Arabic, we have only 15 to 16 U.S. Foreign Service officers fully fluent in Chinese, and only 10 Foreign Service officers who are fully fluent in Japanese.

Just recently Monteagle Sterns, former Ambassador to Greece, did an internal examination and report for the State Department. He reported not only do we have a bad situation, but it is getting worse. He makes comparisons with other countries and comparisons that are, frankly, not very helpful to our country. And he says we are hurting ourselves.

□ 1310

I had an amendment adopted on the Foreign Service Act a few years ago which called for the Secretary of State to designate two countries where we would have an experiment, where we would require everyone in those countries, including the secretaries, the Marine guards, AID people, everyone, to speak the language of the country.

Secretary Haig designated Senegal and Uruguay as the two countries.

It is very interesting. We have a report back from the State Department now saying it was an unbelievable success.

Well, it did not surprise some of us. Clearly, we ought to be moving in this direction.

I was pleased to note that the chairman of the committee quoted Bob Inman in his opening remarks. Admiral Inman, when he was still in the Navy, testified before a subcommittee I chaired in the House, in which he said we faced a horrendous problem in foreign language competency in our country.

The head of the CIA has talked about it. Secretary Weinberger has talked about it. Morehead Kennedy, one of the hostages in Iran, testified that of the 52 hostages in Iran, 6 spoke Farsi, the language of the country in which they were stationed. His explanation or one of the reasons for what happened is that he said we were speaking with the elite in English rather than speaking to the people on the street.

Well, we have a problem.

I thought initially about taking some money from this appropriation and having it put directly into this very serious area of concern. After discussing it with the chairman of the committee and having a brief discussion with Senator PELL and Senator SARBANES, I decided, instead, to have this sense-of-the-Senate resolution, which I believe is agreeable. I do want, however, for that to have some muscle.

For that reason, Mr. President, I am going to ask for a rollcall on this particular amendment so that we send the signal to the State Department that we are going to have to change.

Let me just add, this is not a problem for the State Department in isolation. It is a problem in our culture. We are the only nation on the face of the Earth where you can go through grade school, high school, college, get a Ph.D. and never have a year of foreign language. We have to change things.

I hope that the State Department will get a signal from this and that we can start improving things.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. SIMON. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

The Senator from Indiana.

Mr. LUGAR. Mr. President, the Senator from Illinois has presented an important amendment. It is correct that we have had discussions with the Senator. The success was apparent at the Embassies in Senegal and Uruguay where the experiment was conducted, where their abilities were enhanced and improved.

It appears to me that the sense-of-the-Senate resolution with regard to increasing language capability is well placed. Therefore, we are prepared to accept the amendment. Obviously, the Senator has called for a rollcall vote and the Senate will be heard in a different way.

I would like to ask the distinguished ranking Member to get some indica-

tion from his leadership as to the desirability of having that vote at this time. It occurs to me that there are many Members who were not anticipating votes at 1:15, and who are some distance from the floor. I simply add that thought to give staff time to consult the leadership and determine what would appear to be the proper procedure at this stage.

Mr. PELL. I must say I have the same reaction. I know of at least one Senator on this side and others who are downtown attending various functions.

First, I will comment on the amendment and then I will suggest the absence of a quorum.

The amendment to my mind is an excellent amendment. I think it is a disgrace that we are the only Foreign Service in the world where you can enter with just one language, English. I believe very strongly that greater emphasis should be made on foreign language training, particularly on tough languages, as the Senator from Illinois has pointed out.

I do, indeed, support this amendment. I know of no objection to it on our side.

Mr. SIMON. If the Senator will yield, can I ask unanimous consent to stack this vote and have it just before final passage? That would be fine with me.

Mr. LUGAR. The Senator has asked that a rollcall vote on his amendment occur before the rollcall vote on final passage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from Illinois be set aside until, at the time of 2:15 on this date, the rollcall vote which has been requested will be cast on his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. LUGAR. Mr. President, I amend my unanimous-consent request to ask merely that the pending amendment be temporarily set aside. I do so in view of the fact that Members may wish to be informed via the hot lines of both parties before we set the time for the vote. My request is simply that the amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, while the minority leader is present, I should like to make a unanimous-consent request that the vote on the Simon amendment occur at 2 p.m., and that no amendment be permitted to the Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN and Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2180

(Purpose: Relating to trade between the United States and the Republic of Korea)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 2180.

Mr. McCONNELL. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . DENIAL OF BENEFITS UNDER THE GENERALIZED SYSTEM OF PREFERENCES TO THE REPUBLIC OF KOREA.

(a) The Congress finds that—

(1 the exports of the Republic of Korea to the United States have grown at an average annual rate of nearly 16 percent since 1981, United States exports to the Republic of Korea grew at an average annual rate of approximately 3 percent during that period with a decrease of 2 percent in 1985;

(2) in 1985 the United States imported from the Republic of Korea merchandise worth $10,013,085,000, the Republic of Korea only imported merchandise from the United States of a value of $5,720,136,000, resulting in a United States trade deficit of $4,292,949,000;

(3) in 1985 the United States extended to the Republic of Korea preferential treatment under the Generalized System of Preferences (GSP) program for certain products it exports to the United States worth $1,655,000,000, making the Republic of Korea the second largest beneficiary under such program;

(4) the Republic of Korea persists in maintaining the following acts, policies, and practices which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce:

(A) the domestic market of the Republic of Korea is closed to cigarettes made in the United States to the extent that—

(i) it is illegal for citizens of the Republic of Korea to possess cigarettes made outside the Republic of Korea, and

(ii) a citizen of the Republic of Korea possessing foreign cigarettes is subject to a fine of up to $1,161.44, imprisonment, and loss of employment,

(B) the importation into the Republic of Korea of all beef and pork from the United States has been effectively banned since May 1985 even though, prior to the ban, the United States supplied most of the high-quality beef imported into the Republic of Korea,

(C) the Office of National Tax Administration of the Republic of Korea is scheduled to require that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987,

(D) the Ministry of Agriculture and Fisheries of the Republic of Korea restricts the importation of many United States agricultural items by refusing to grant import approval to those items, including fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas,

(E) the issuance of an import license for United States manufactured goods must have the recommendation of the Korean industry association whose members compete with the imported goods, which has an adverse effect on many United States products, including agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal computers, electric shavers, cameras, and construction equipment,

(F) the importation of computers and peripheral equipment that can be produced locally has been effectively banned since July 1982, by the requirement of the Republic of Korea that investment or licensing of local production of computers and peripheral equipment be made as a condition for importing computers and peripheral equipment,

(G) tariffs imposed by the Republic of Korea remain unreasonably high on several products in which the United States has a comparative advantage, including—

(i) fresh fruits and vegetables (current tariff is percent ad valorem),

(ii) canned meat (current tariff is 40 percent ad valorem),

(iii) cosmetics (current tariff is 40 percent ad valorem),

(iv) wood products (current tariff is 20 percent ad valorem),

(v) electric hand tools (current tariff is 20 percent ad valorem),

(vi) computers (current tariff is 20 percent ad valorem),

(vii) automobile parts (current tariff is 30 percent ad valorem), and

(viii) chocolate confectionary (current tariff is 40 percent ad valorem, falling to 30 percent ad valorem in 1988),

(H) the application of emergency tariffs, adjustment tariffs, special commodity taxes, and value added tax on top of the general tariff rate, and other fees, make many products prohibitively expensive,

(I) the entire import regime of the Republic of Korea is designed, through the use of import licenses and quotas, to discourage the importation of any seafood, so that the only United States product now entering the Republic of Korea in any volume comes from joint ventures, and much of this is reprocessed in the Republic of Korea and exported,

(J) the Republic of Korea unreasonably restricts the sale of United States fire insurance to only those properties outside of the 10 largest cities in the Republic of Korea, and unreasonably denies licenses to United States firms to write life insurance,

(K) the Republic of Korea unreasonably denies United States banks the ability to participate fully in the domestic financial market, and

(L) the Republic of Korea does not adequately protect intellectual property; and

(5) these unreasonable, unjustifiable, and discriminatory acts, policies, and practices of the Republic of Korea burden or restrict United States commerce.

(b) It is the sense of the Congress that the Republic of Korea should not be treated as a beneficiary developing country under title V of the Trade Act of 1974, popularly known as the Generalized System of Preferences, until the unreasonable, unjustifiable, and discriminatory acts, policies, and practices described in subsection (a)(4) are eliminated and import restrictions imposed by the Republic of Korea are liberalized through—

(1) agreement by the Republic of Korea that the purchase and sale of imported cigarettes, and regulation thereof by the Republic of Korea and its instrumentalities, will be conducted on a nondiscriminatory and equitable basis, including repeal of the law which makes it illegal for citizens of the Republic of Korea to use or possess imported tobacco products under threat of fine, imprisonment, or loss of employment;

(2) extension of the ability to import United States tobacco leaf into the Republic of Korea to all private non-Korean entities;

(3) elimination of the ban on the importation into the Republic of Korea of beef and pork from the United States;

(4) inclusion on the Automatic Approval List of fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas;

(5) inclusion on the Automatic Approval List of agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal computers, electric shavers, cameras, and construction equipment;

(6) elimination of the ban on the importation of computers and peripheral equipment that can be produced locally;

(7) reduction and binding of the general tariff rates imposed by the Republic of Korea to the levels of protection maintained by average industrialized countries, including, but not limited to, wood, wood products, and dairy commodities;

(8) elimination of the practice of discouraging the importation of seafood into the Republic of Korea;

(9) elimination of the requirement that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987;

(10) elimination of restrictions on the sale of United States fire insurance in the Republic of Korea;

(11) elimination of unreasonable denials of licenses to United States firms to write life insurance; and

(12) extension to United States banks of the ability to participate fully in the financial markets of the Republic of Korea.

Mr. McCONNELL. Mr. President, on March 19, I submitted Senate Resolution 369, which if approved, would express the sense of the Senate that the Republic of Korea should not be extended benefits under the generalized system of preferences [GSP] until the unreasonable and unjustifiable trade-related acts, policies, and practices described in the legislation are eliminated. Presently, 13 of my Senate colleagues have cosponsored this resolution: Senators ABDNOR, EAST, FORD, GORE, HEINZ, HELMS, HOLLINGS, SASSER, SYMMS, THURMOND, TRIBLE, WARNER, and WILSON. The resolution is embodied in the amendment that I have sent to the desk today.

I recognize that this initiative is narrow in its focus. By submitting Senate Resolution 369 and offering this amendment, however, I have chosen to isolate what I believe is a particularly important part of the trade debate. Korea is not alone in erecting trade barriers, but it has maintained in some areas especially egregious policies of import protection.

Title V of the Trade Act of 1974 as amended provides the authority to extend preferences and sets forth criteria for country and product eligibility, and for limitations of preferential treatment under GSP. In all GSP determinations, the President is required to take into account several discretionary criteria relating to country practices. Specifically, he is required, among other things, to examine "the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices * * *."

Furthermore, the President must consider "the extent to which such country is providing adequate and effective means under its laws for foreign nations to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademarks, and copyrights * * *." He must also consider "the extent to which such country has taken action to reduce distorting investment practices and policies (including export performance requirements); and reduce or eliminate barriers to trade in services."

Mr. President, it was after examining these criteria as applied to the Republic of Korea that I decided to submit Senate Resolution 369, and it is why I offer this amendment today. I am convinced that market access barriers that have been set up by the Republic of Korea to protect its markets require us to seriously consider eliminating duty-free access for Korean products and commodities to our markets. Let me take a couple of minutes to talk about the kind of barriers the Republic of Korea erects.

For example, the importation into the Republic of Korea of all beef and pork from the United States has been effectively banned since May 1985. Prior to the ban, the United States supplied most of the high-quality beef imported into the Republic of Korea. The Office of National Tax Administration of the Republic of Korea is scheduled to require that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987.

The Ministry of Agriculture and Fisheries in the republic restricts the importation of many U.S. agricultural items by refusing to grant import approval to those items. Included in the items which are subject to such restraints and are presented from being imported into the Republic of Korea are fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meats, walnuts, fresh grapes, canned beef and pork, canned peaches, frozen orange juice concentrate, and on and on. I have a whole list in my amendment of a variety of different American products that are either eliminated altogethr from the market or to which are applied such restrictive quotas or such excessive tariffs that they are eliminated from the market.

Obviously, coming from a State that has 150,000 tobacco growers, I am particularly offended by the fact that in Korea, it is illegal for a Korean to possess a foreign cigarette. The Korean Government is not kidding about this. They arrested several Korean people back in 1984. What can happen to you if you have a foreign cigarette on your person? A Korean found with a foreign cigarette on his person is subject to a fine up to $1,161.44, imprisonment, and loss of employment. I call that rather serious protectionism.

The tobacco growers in Kentucky cannot understand why, in a country where many of them fought side by side to protect South Korea from the Communist invasion from the north, it is illegal to possess American cigarettes into which the tobacco they grow is placed.

After I submitted this resolution, with the support of all the Senators referred to earlier, I had a number of discussions with the various Korean officials in this country for a couple of months prior to my visit to Korea over the Memorial Day recess. I want to relate to my colleagues my experience upon my visit to Korea during that period.

The Koreans could not have been nicer. I met with their equivalent of our Secretary of State, their equivalent of our Secretary of Commerce, their equivalent of our Federal Trade Representative, and with the President of Korea, Chun Doo Hwan, for 45 minutes privately at the Blue House. During all of those discussions and most specifically during the discussion with President Chun, the following commitment was made: No. 1, that the Korean National Assembly, during its extraordinary session, which just ended yesterday, was to pass a bill which would begin to change the way the Republic of Korea handles imported cigarettes.

The bill which was to have passed during the extraordinary session would have begun to change the Korean ginseng and tobacco monopoly from a government agency into a corporation. This first step on the part of the Korean Government would have taken some courage. They have 30,000 employees in their tobacco and ginseng monopoly, Mr. President, larger than the State of Kentucky government. It was, of course, a move that would have been somewhat unsettling to those Korean employees of the

Government. Nevertheless, President Chun, whose party controls the National Assembly, assured me that that step would be taken during the extraordinary session.

The extraordinary session ended yesterday and the step was not taken. The President's party does control the National Assembly. While I understand and realize the political difficulties in taking that first step toward liberalizing the market, it seems to me clearly evident that this commitment was not kept.

No. 2, the second commitment made by the President was that in the regular session of the National Assembly this fall, Korea would pass a bill decriminalizing the possession of foreign cigarettes. I am now told that both steps will be taken in the regular session this fall. But I might say, Mr. President, I am quite impatient and I know other Members of the Senate from States which have commodities that are effectively shut out of the Korean market are growing equally impatient. Word was given that this step would be taken during the extraordinary session and it was not taken.

Mr. President, I offer the amendment today, even though I do not intend to press for its adoption or for a vote, because I think it is appropriate to bring up at this time the failure to honor this commitment on behalf of the Korean Goverament. I shall not, as I have assured the chairman of the Committee on Foreign Relations, press for a vote. I do think this is a matter that should come before the Senate this year. It is my understanding, from various observations that the majority leader has made, that some kind of trade legislation will be before the Senate, likely this summer. I shall indicate to him and I indicate to my colleagues today that I intend to offer this sense-of-the-Senate resolution as an amendment to appropriate trade legislation when it comes before the Senate, we hope this summer.

□ 1350

Mr. LUGAR. Mr. President, I have listened carefully to the distinguished Senator from Kentucky. He makes a very important point about conversations with the Government of South Korea. Let me indicate to the distinguished Senator, it is my understanding that many Senators, led by, of course, the majority leader, have expressed a serious interest in trade legislation. Indeed, a comprehensive bill was introduced with the cosponsorship of many committee chairmen last year. That bill still remains a working vehicle in the judgment of this Senator. My guess is that there are many Senators who would want to be heard, if they were in my stead presently, indicating a very considerable interest in the expression by the Senate on these issues, one of which the distinguished Senator from Kentucky has raised very specifically this afternoon. I appreciate the Senator's willingness to revisit this issue on another piece of legislation on another day but, likewise, the very explicit facts that he has brough to the attention of the Senate that clearly will be a part of the conversation as we look at overall trade legislation.

Mr. McCONNELL. If the Senator will yield, I must repeat my particular exasperation with receiving two specific commitments on this trip—two very specific commitments. Unlike a lot of the experiences that many of us have had abroad in trying to tie down an exact time after which a certain step was to be taken, I was told by officials in the Korean Government, unlike other governments in that area of the world, specific commitments would be made, A, and B, specific commitments would be kept. Two specific commitments were made, the first to be kept during the extraordinary session of the National Assembly that ended yesterday and that commitment was not kept. So I think it is a matter of grave concern to all of us who are looking for market access abroad. I thank the distinguished chairman of the Foreign Relations Committee for his observations and, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 2181

(Purpose: To express the sense of the Senate that funding of Kurt Waldheim's retirement allowance from the United Nations should be eliminated)

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair notifies the Senator from New York that it would take unanimous consent to set aside the Simon amendment.

Mr. MOYNIHAN. Mr. President, I thank the Chair for its courtesy. I ask unanimous consent that the Simon amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2181.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Since Kurt Waldheim has lied repeatedly about his past, particularly his service as intelligence officer for convicted war criminal General Alexander Lohr;

(2) Since such mendacity enabled Kurt Waldheim to rise to the position of Secretary General of the United Nations;

(3) Since Kurt Waldheim currently receives $81,650 a year as a retirement allowance for his service in that position; and

(4) Since the allowance rewards him for having lied about matters that are at the very heart of the existence and purposes of the United Nations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should instruct the Permanent Representative of the United States to the United Nations to introduce in the General Assembly—

(1) an amendment to the 1986-1987 United Nations Regular Program Budget eliminating funding of Kurt Waldheim's retirement allowance; and

(2) a resolution denying Kurt Waldheim a retirement allowance in all budgets after 1987.

Mr. MOYNIHAN. Mr. President, this amendment can be stated in very compact terms. It has to do with the pension allowance which is provided each year in the budget of the General Assembly for Mr. Kurt Waldheim in respect of his 10-year service as Secretary General. This amount is $81,650 a year. It is not a pension. There is no pension fund. It is, rather, an appropriation in lieu of a pension and is entirely optional with the General Assembly.

Mr. President, I do not think it necessary to rehearse here on the Senate floor the very painful and damaging details of the past history of Mr. Waldheim that we have learned in the course of this year's campaign for the Presidency of Austria in which he was a candidate, ultimately the successful one, and during which these facts came out.

Let me suggest that as the Senate acts in this measure—and I am sure that it will wish to do—we make a narrow statement of the facts dealing only with measures that can be fully established from the record but which in our view are sufficient to merit this action. The facts to which I refer are elemental and indeed there is only one important fact, which was that in all of his representations to the Western World, in his autobiography, in his official biographies, his public statements, Mr. Waldheim always represented that he was a member of the German Armed Forces, the German infantry—and in that time Austria was a part of Germany—that he fought for a period in the Easten front, that is to say, in the Soviet Union, that he was wounded in the leg and returned in 1942 in most narrations and in effect left military service and resumed his law studies.

Mr. President, it is painful to say this, but this is a lie, a lie now admitted, a lie no longer in any dispute, but a lie that was not of just an ordinary misrepresentation of the past; rather, a misrepresentation that went to the very heart of the purposes and origins of the United Nations, for the fact is that Mr. Waldheim, after recovering, returned to military service and was

actively involved on the staff of a war criminal, Gen. Alexander Lohr, who was executed for war crimes involving the Balkan region in 1943–44. It was he who ordered the expulsion, the deportation, if you like, of the Jewish community of Salonika, one of the oldest Jewish Sephardic communities of the Mediterranean, almost to the last child rounded up and deported to be destroyed, to be murdered at Auschwitz as an act of sheer madness.

It was Lohr who carried out, for a ruthless time, the extraordinary barbarous treatment of civilians in the guerrilla war that the Yugoslavian partisans and various groups undertook in response to the German invasion of that country. In all these matters, Mr. Waldheim was on hand. He was an intelligence officer. He was a translator. These are all his own admission. And they could even at this distance of time with enough openness, honesty, contrition, I think, be understood and accepted. This was the experience of many persons of that time and not everyone had their fate under their own control. But if you consider that the United Nations was formed in an alliance against Nazi Germany and its declarations of human rights, international law, are so fundamentally directed to putting an end to exactly those things in which Mr. Waldheim participated, for him to have concealed those facts is unjustifiable, is unforgivable, and has done the United Nations damage which will be a very long while before it becomes a matter of the past, and from which the institution has recovered, if indeed it does recover.

□ 1340

Some day, on this floor, we are going to have to talk about the process by which the United States involves itself in the selection of the Secretary General. But suffice it to say at this point that had Mr. Waldheim's past been known, it is very unlikely he ever would have been chosen. In my mind it is not possible that Mr. Waldheim would have been chosen Secretary General had this aspect of his past been known.

It happens that I was present on the evening, the early hours of the day, on which the choice was made. The United States had supported a distinguished diplomat, Mas Jakobson of Finland, who was unacceptable to the Soviet Union for the very reason of his distinctions. Other candidates were put in nomination. In the end, Mr. Waldheim was chosen, with obviously very little attention on our part to any background we might have needed to know. He was then the permanent representative of the Government of Austria. We had reason to take some things as given, but clearly we will not have that reason in the future.

In any event, had it ever developed in the course of his first term that he had in fact concealed this information the way he did, he would never have been nominated for a second term. Certainly the United States would have vetoed it. I was the permanent representative at the time the decision was made that we would support him for a second term, and I can speak with a degree of certainty that had this concealed past been known, there would have been no such second term.

So the question is now, What can we do? Well, we cannot undo the history of 10 years of this man as Secretary General, but we can cease to reward him for those 10 years of deception—and we know not what else.

It is the practice each year for the General Assembly to appropriate $81,650 as a payment in lieu of pension—in place of pension. It seems to me that this need no longer be done. Dr. Waldheim is President of Austria. He is well provided with the amenities and allowances and salary that go with that position. He has other resources as well from his past in the foreign ministry. We need not concern ourselves that he may become destitute as a consequence of our action. Our action gives our government the first opportunity to state that it does not like what happened and wishes, by formal action, to declare its dismay and possibly to indicate its resolve that such an event will not happen again.

Mr. President, the amendment simply asks our President to instruct the permanent representative to offer an amendment striking this retirement allowance for the current year and for future years. I cannot doubt that this would be welcomed in the executive branch and in the Department of State as a measure of supporting what I cannot but suppose is the wish of the administration. It may be that they are not aware of this payment. All the better, then, that we could put them on notice and give them the opportunity and the right to say that the U.S. Senate supports them in this matter and, indeed, has urged it upon them.

Mr. LUGAR. Mr. President, it is always important to listen to the distinguished Senator from New York as he speaks about the United Nations. I know that I speak for all Senators in the admiration we have for his distinguished service on behalf of our country at the United Nations. It is of historical interest, as the Senator has pointed out, that he was present at the time that Mr. Waldheim came into the office that is being discussed.

I have no indication from the administration or the Department of State with regard to their feelings on the amendment. It is a new subject that has come to the attention of the managers of the bill today. At the same time, we have read the amendment carefully. It does express the sense of this body that the President of the United States ought to instruct our permanent representative with regard to the Waldheim pension. It seems to me to be a sensible and reasonable proposition, and we are prepared on this side of the aisle to accept the amendment.

Mr. PELL. Mr. President, I think the amendment of the Senator from New York probably expresses the chagrin of many of us for the behavior and the actions and the lack of fullness in telling the truth of the Secretary General.

We are aware of the good he did when he was Secretary General; conscious of the fact that his wife, who joined the Nazi party as a young woman of 19, was persuaded by Secretary General Waldheim 2 or 3 years later, as a condition of their marriage, to get out of the Nazi party.

So it is not all black and white here. But I do think that, on balance, the Senator from New York has raised some very valid points. There is no question that if the United Nations had been aware of the wartime record and service of Mr. Waldheim, he would not have been rewarded with the Secretary Generalship of the United Nations.

For that reason, I say there is no objection to this amendment on our side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2181) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agred to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank my distinguished friends, the chairman and ranking minority member of the committee.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 2182

(Purpose: To authorize a study of the feasibility of a program for the control and eradication of amblyomma variegatum (heartwater), in bovins animals in the Caribbean and for a program to control and eradicate amblyomma variegatum in countries in the Caribbean)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Florida that the amendment of the Senator from Illinois would have to be temporarily set aside in order to consider the Senator's amendment and the Chair will also indicate to the Senator from Florida that the time of 2 o'clock has been established for voting on that amendment.

Does the Senator wish to set aside the amendment temporarily?

Mrs. HAWKINS. The Senator does wish to set the amendment aside temporarily.

The PRESIDING OFFICER. Without objection, the amendment of the

Senator from Illinois is set aside temporarily.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] for herself and Mr. MATTINGLY, proposes an amendment numbered 2182.

At the appropriate place insert the following:

(a) Section 103 of the Foreign Assistance Act of 1961 is hereby amended—

(1) by adding the following paragraph after paragraph (a)(2):

(3) Of the funds authorized to be appropriated in paragraph (2) of this subsection, $150,000 for the fiscal year 1986 shall be available only for a study of the feasibility of a program for the control and eradication of amblyomma variegatum (heartwater) in bovine animals in the Caribbean, to be completed within 180 days from the date of enactment of this act. Of the funds authorized to be appropriated for the fiscal year 1987, not less than $4 million shall be available only for the purpose of controlling and eradicating amblyomma variegatum in these countries.

Mrs. HAWKINS. Mr. President, I rise to offer an amendment to deal with an emergency situation that has arisen in the Caribbean. There has been identification of heartwater, known by its scientific name amblyomma vaniegatum, in several islands in the Caribbean.

This is a disease which has been unknown in this hemisphere until recently when it seems to have been transmitted from Africa to certain countries in the Caribbean.

There is reason to fear that this disease could be further transmitted to the southern, warmer regions of the United States where it could cause severe economic hardship on the cattle industry of this country. It could even be transmitted to the northern part of the country.

Agriculture, especially livestock raising, is an important element in the development of all the countries of this region. The disease transmitted is fatal. It can be transmitted by birds and wildlife, as well as bovine animals. There is no way these countries will be developed unless we show our concern for their agricultural industries.

This is an opportunity to help the countries of the region, and protect an important American industry, simultaneously. I hope the managers of the bill will be willing to accept the amendment. It is a small amount of money, but an amount that will be well invested.

We know that heartwater is present in the Caribbean. We cannot afford to have it spread into the United States. Florida could very well be the gateway and we cannot let that happen. The cattle industry in Florida is a $350 million a year business that is directly threatened by the possible spread of this disease.

This is a major type of amendment. We have been working on this problem since March 1986. This benefits the entire United States. A study that we do in our State is solving a problem throughout the United States and one wonderful thing about this particular amendment is it is a study to be done in 180 days so we will have a solution to this problem.

I unerstand it has been cleared on both sides of the aisle.

I thank both sides of the aisle for giving it immediate consideration, since it is a major matter.

Mr. LUGAR. Mr. President, I believe we are prepared to accept the amendment on our side.

The PRESIDING OFFICER. Is there further debate on the Senator's amendment? The question is on agreeing to the amendment.

The amendment (No. 2182) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. HAWKINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I inquire of the managers of the bill since there is a vote scheduled for 2 o'clock. I have four very small amendments. They have been cleared on both sides. Will the managers agree that we might go forward at this time by asking the pending amendment be set aside?

Mr. LUGAR. Yes.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the pending amendment be laid aside for the purpose of considering en bloc four amendments that have been accepted by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2183

(Purpose: To reduce the dollar threshold on contracts for which only U.S. contractors may bid)

(Purpose: To narrow the provision authorizing the Secretary of State to waive the requirement that U.S. contractors be used)

(Purpose: To permit more United States persons to bid on contracts)

(Purpose: To require that 10 percent of the contracts, to the extent practicable, be amended to small businesses)

Mr. RUDMAN. Mr. President, I send to the desk four amendments which I ask to be considered en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment en bloc numbered 2183.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, line 4, strike "$5,000,000" and insert in lieu thereof "$500,000 or which involves physical or technical security".

On page 109, line 7, beginning with "laws" strike all through line 13 and insert in lieu thereof the following:

"statutes which prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the House Committee on Foreign Affairs, the House Committee on Appropriations, the Senate Committee on Foreign Relations, and the Senate Committee on Appropriations what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by the Foreign Missions Act.".

On page 110, line 4, strike "5" and insert in lieu thereof "2".

On page 110, beginning on line 12, strike all through line 15.

On page 110, strike "(F)" and "(G)" where they appear and insert in lieu thereof "(E)" and "(F)", respectively.

On page 111, line 8, strike "(e)" and insert in lieu thereof the following:

"(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors. Contracts awarded pursuant to subsection (d) of this section shall not be considered in determining compliance with this subsection.

"(f)".

THRESHOLD FOR "BUY AMERICAN" PROVISION

Mr. RUDMAN. Mr. President. The committee bill indicates that only U.S. contractors may bid on diplomatic construction or design projects with total project values exceeding $5,000,000. The effect is to open those projects valued at less than $5,000,000 to foreign competition, in effect often denying projects to American firms.

An ironic effect of the committee bill is to provide a "Buy American" preference for the larger projects likely to be bid on by large companies, while denying such preference for those projects more likely to be bid on by small business.

My amendment solves this problem by reducing from $5,000,000 to $500,000 the level at which foreign contractors may compete for projects involved in this diplomatic security enhancement program. In addition, it provides that only U.S. firms may compete on any projects involving physical or technical security.

FOREIGN PROHIBITIONS ON U.S. CONTRACTORS

Mr. President, the committee bill permits the Secretary of State to waive the preference for U.S. contractors when the foreign country has laws or policies which prohibit the use of U.S. firms, provided he notifies Congress of his intent to do so.

My amendment strengthens that by limiting the Secretary's authority to waive in situations where the foreign country has statutes precluding U.S. firms from competing. The amendment also requires the Secretary to report to the appropriation congres-

sional committees on what retaliatory action, if any, he is proposing to take under the Foreign Missions Act.

The fact of the matter is that U.S. Embassies and consulates overseas are legally a part of the United States. No foreign country should be allowed with impunity to dictate to our Government who we may or may not use to build or improve the security of our diplomatic facilities.

MAKING IT POSSIBLE FOR MORE FIRMS TO COMPETE

Mr. President, the third amendment addresses provisions which effectively preclude many firms, especially smaller businesses, and any new companies from bidding on these projects.

The committee, in what I believe was an effort to try control quality, limited eligible contractors to companies who had been in business for at least 5 years and which had achieved a certain level of business volume. However, many of the companies involved in physical and technical security equipments and installations are evolving companies resulting from the recent upsurge in worldwide terrorism. The committee provision has the effect of precluding many of these newer companies from competing for contracts under this program. With less competition, the taxpayer will end up paying more.

My amendment solves the problem by reducing the 5 year requirement to 2 years and striking the business volume threshhold.

SMALL BUSINESS SETASIDE

Mr. President, the fourth amendment establishes a setaside for small businesses, and now I quote from the amendment, "to the extent practicable."

The fact of the matter is that the State Department has a history of preferring to deal with a small number of favored suppliers for goods and services. Small businesses around the country who are not in favor find it almost impossible to successfully bid on State Department work.

My amendment attempts to address this problem by ensuring small businesses a percentage of the available work. At the same time, it provides the State Department with the flexibility to waive these provisions when absolutely necessary.

I might note that I expect the State Department to have good explanations if they fail to meet this requirement. As chairman of the Appropriations Subcommittee with jurisdiction over their budget, I intend to monitor their implementation of this provision carefully.

Mr. President, a very brief explanation.

As the committee bill is presently written, I believe that American companies will in general, have more difficulty in competing for contracts on the smaller projects.

Accordingly, these four amendments deal with enhancing the opportunities for American firms to do the kind of construction that we are talking about in support of the diplomatic security initiative that this Congress is going to fund at a very high level this year. These amendments will enhance the opportunity of American companies, both large and small, to do that work.

It is also the purpose of one of these amendments to ensure that only American companies will compete for projects involving physical or technical security.

I believe that fairly describes the amendments, which have been cleared on both sides.

Mr. LUGAR. Mr. President, my distinguished colleague, the Senator from New Hampshire, has proposed four amendments which will assure further participation by American small business in the Diplomatic Security Program

One of the most important objectives the Foreign Relations Committee had in drafting the amended version of H.R. 4151 was to see that American companies were involved in the program both for the economic benefit as well as the additional security it afforded the program.

The Senator's amendment certainly helps reach that objective.

I support the amendment on our side of the aisle and I am prepared to accept all four.

Mr. PELL. Mr. President, these are four excellent amendments.

Coming from the State where I do, where small business is really a great deal of all our business, I am glad indeed to recommend the passage of these amendments and commend the Senator from New Hampshire for having proposed them.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 2183) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, let me express my appreciation to the chairman and ranking minority member of the Foreign Relations Committee and their staff working with us and working out these amendments and allowing us to present them at this time.

I am sure the small business community of America does appreciate that.

Mr. LUGAR. I thank the Senator.

AMENDMENT NO. 2179

The PRESIDING OFFICER (Mr. RUDMAN). Under the previous order, the hour of 2 p.m. having arrived, the vote will now occur on the Simon amendment.

The question is on agreeing to the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON: I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—99

Abdnor	Glenn	McConnell
Andrews	Goldwater	Melcher
Armstrong	Gore	Metzenbaum
Baucus	Gorton	Mitchell
Bentsen	Gramm	Moynihan
Biden	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hart	Nunn
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Bumpers	Hawkins	Proxmire
Burdick	Hecht	Pryor
Byrd	Heflin	Quayle
Chafee	Heinz	Riegle
Chiles	Helms	Rockefeller
Cochran	Hollings	Roth
Cohen	Humphrey	Rudman
Cranston	Inouye	Sarbanes
D'Amato	Johnston	Sasser
Danforth	Kassebaum	Simon
DeConcini	Kasten	Simpson
Denton	Kennedy	Specter
Dixon	Kerry	Stafford
Dodd	Lautenberg	Stennis
Dole	Laxalt	Stevens
Domenici	Leahy	Symms
Durenberger	Levin	Thurmond
Eagleton	Long	Trible
East	Lugar	Wallop
Evans	Mathias	Warner
Exon	Matsunaga	Weicker
Ford	Mattingly	Wilson
Garn	McClure	Zorinsky

NOT VOTING—1

Packwood

So the amendment (No. 2179) was agreed to.

□ 1420

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2184

(Purpose: To provide for forfeiture of proceeds derived from espionage activities, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. DENTON, Mr. THURMOND, Mr. LEAHY, Mr. MURKOWSKI, Mr. D'AMATO, Mr. BOREN, Mr. LAXALT, Mr. ZORINSKY, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. MATTINGLY, Mr. LEVIN, Mr. ANDREWS, and Mr. LUGAR proposes an amendment numbered 2184.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following: Section 794 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(d)(1) Any person convicted of a violation of this section or of any other felony in violation of the provisions of this chapter shall forfeit to the United States, irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section or of any other felony in violation of this chapter, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Upon motion of the United States attorney made at any time after conviction of a person at a trial conducted under chapter 47 of title 10 with respect to convictions under sections 904 (article 104), 906 (article 106), 906a (article 106a), and for convictions under section 934 (article 134) that incorporate provisons of this chapter, a court of competent jurisdiction shall, if the court determines that the interest of justice so requires, order such person to forfeit to the United States all property described in paragrapoh (1) of this subsection.

"(e)(1) Upon the motion of the United States attorney made at any time after conviction of a defendant for a violation of this section, for any other felony in violation of this chapter, or for an offense described in subsection (d)(4) of this section, and after notice to any interested party, the court shall, if the court determines that the interest of justice so requires, order such defendant to forfeit to the United States all or any part of proceeds received or to be received by that defendant, or by a transferee or that defendant, from a contract relating to the depiction of such offense in a movie, book, newspaper, magazine, radio or television production, or live entertainment or presentation of any kind, or from a contract relating to an expression of the convicted person's thoughts, opinions, or emotions regarding such crime.

"(2) An order issued under this subsection shall require that the party with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such a contract.

"(3) Proceeds paid to the Attorney General under this subsection shall be paid into the general fund of the Treasury of the United States.

"(4) As used in this subsection, the term 'interested party' includes the defendant, any transferee of proceeds due the defendant under the contract referred to in paragrpah (1), and the person with whom the defendant has contracted.

"(f)(1) The Attorney General of the United States, at his discretion, is authorized to pay an amount not to exceed $100,000 as a reward for information—

"(A) leading to the arrest or conviction of any person for—

"(i) the commission of a felony in violation of this chapter or for a conspiracy or attempt to commit such an offense; or

"(ii) an offense described in subsection (d)(4) of this section, or for a conspiracy or attempt to commit such an offense; or

"(B) leading to the prevention, frustration, or mitigation of the effect of a felony in violation of this chapter or of an offense described in subsection (d)(4) of this section.

"(2) The Attorney General or the designeee of the Attorney General shall determine whether an individual furnishing information described in paragraph (1) is entitled to a reward under this section and the amount to be paid, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, or the Director of the Federal Bureau of Investigation. A determination made by the Attorney General or the designee of the Attorney General under this subsection shall be final and conclusive, and no court shall have jurisdiction or power to review such determination.

"(3) No officer, employee, or member of the Armed Forces of the United States or of any governmental entity who, while in the performance of his or her official duties, furnishes the informaton described in paragraph (1) shall be eligible for any monetary reward under this subsection, except that a person who acts with official approval as an undercover source or informant, when it is not a part of that person's normal official duties to do so, may be eligible for such a reward.

"(4) There are authorized to be appropriated such sums as are necessary for the payment of rewards under this subsection except that no funds may be appropriated for this purpose prior to fiscal year 1987.".

Mr. STEVENS. Mr. President, the amendment I present to the Senate addresses what I consider to be a serious problem that faces our Nation, the question and the problem surrounding espionage.

I introduced S. 1654 on September 17 of last year to attempt to respond to that problem and that bill was pending before the Judiciary Committee for some time. It is now before us.

I offer this amendment on my behalf and also Senator DENTON, who worked very hard to get the bill out of the Judiciary Committee, as well as Senators LEAHY, MURKOWSKI, D'AMATO, BOREN, LAXALT, ZORINSKY, THURMOND, MCCONNELL, LEVIN, ANDREWS, MATTINGLY, ARMSTRONG, and DURENBERGER.

There are at least 41 cosponsors to the basic bill. Unfortunately I have been unable to contact all of them before today so I ask unanimous consent the remainder of the list be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senators Domenici, Heinz, Simpson, Glenn, Nunn, Hatch, Chiles, East, Chafee, Gorton, Kasten, Rudman, Goldwater, Garn, Bumpers, Byrd, Boschwitz, Exon, Nickles, Hawkins, Roth, Gore, Abdnor, Grassley, Quayle, and Symms.

Mr. STEVENS. This legislation, Mr. President, is not too complicated. It addresses the problem of spies, spies who have been selling information concerning the security of our country and have been profiting from that action.

It would deny spies the proceeds of the sale of the information. It would deny spies any royalties from the sale of any story pertaining to their activities, and it would allow rewards for those who turn in information which leads to the apprehension of spies.

By taking away the proceeds of espionage and confiscating property used to commit espionage, we will not just be punishing those convicted of espionage; we will make them think twice about entering into the career of spying for profit.

I believe that we can make it harder for people to get their hands on information of this type. We can try to improve detection methods and we will take various steps to increase security.

However, until we take away the motivation which has been present, that is the financial aspects of spying, we will not be able to stop what has been going on.

Our real job, I think, is to let everyone know that no one in this country will be allowed to profit from espionage.

This legislation will allow the confiscation of any of the proceeds of the sale of the spy story, that is of the spy himself or herself.

The public, I think, has a fascination with spies and espionage but infamy should not be the foundation for a public career or for financial success.

I really believe that it is time for us to act to prevent this type of situation from developing in our country. It is a growing threat to our national security.

Since 1945 there have been 65 prosecutions relating to espionage. Since 1982 the FBI has arrested 25 individuals for espionage; 18 have been convicted and six cases are still pending. This 4-year total is the highest rate for arrest and convictions for espionage charges since World War II. I think the figures speak for themselves.

The lure of money is taking people into espionage. It is attracting too many people and this prime motivation is sheer greed.

Law enforcement officials responsible for investigating espionage cases recognize the common denominator in these cases has become the search for profit. To quote Bill Baker, assistant director of the FBI, "It says in the KGB manual, 'Americans can be bought.'"

We are all aware of the Walker family spy case. We are actually fortunate that John and Michael Walker reached a plea bargaining agreement. This gives us the opportunity to answer questions about just how serious the damage done by the Walkers

has been. The Walkers, however, are not alone in their infamy—by any stretch of the imagination. They have been joined in the headlines recently by Ronald Pelton and the Pollards.

There have been several serious cases in the last few years. The problem of U.S. citizens selling off national security information is best illustrated by a few examples.

Joseph Helmich was arrested on July 15, 1981, on charges of selling top secret information about a cryptographic system to Soviet agents. He was awarded the honorary rank of Colonel in the Soviet Army, and received $131,000.

David Barnett, a former member of the CIA's Directorate of Operations, pleaded guilty on October 29, 1980, to a charge of selling classified information on CIA operations to the Soviet Union. He admitted to receiving $92,600 for this information, and may have been paid an additional amount to try and secure a staff position with the Senate or House Intelligence Committees.

William Bell, a former employee of Hughes Aircraft Corp., was arrested on June 28, 1981. He was charged with espionage in connection with the sale of documents to the Polish intelligence service, for which he received approximately $110,000.

James D. Harper was arrested October 15, 1983, for selling missile data to a Polish agent. Harper reportedly was paid over $250,000. He pleaded guilty to one count of espionage, and was sentenced to life imprisonment on May 14, 1984.

In this sampling—which is far from exhaustive—there is a common factor which dominates each case. These individuals were paid fairly large sums for classified information. Each of them exchanged a portion of our national security for their personal gain.

We all recognize that it is time for Congress to do something about what has become a pervasive problem. This is by no means the only response I expect us to make to espionage. However, I believe this to be a major step in the right direction. If we discourage individuals from selling information we remove the incentive to commit espionage. I propose that we use the profit motive against these perpetrators. This legislation would confiscate the proceeds of espionage activity, and turn the tables on spies by paying those who provide information on their activities.

The tool we would create with this legislation to fight espionage is very similar to one available to drug enforcement agents. This is very appropriate, since the motivation to commit espionage and to deal in drugs is very similar. In both cases, the perpetrator cares little for the consequences of his actions. The reason for being in the business is to make money—at any cost, no questions asked. It is an embarrassment to our society.

It is now apparent that one of the best ways to strike at drug dealers is by taking away the profits of their business. Even though spies are inspired by a similar desire, the amounts of money we are talking about are decidely smaller. At the same time, the harm being done is much greater. Drug use is a plague in this country, but espionage threatens the nation's survival.

Taken as a package, I believe this proposal provides a fairly complete response to the prime motivation of espionage. It is carefully drafted so that it affects only those convicted of espionage felonies. The power to grant rewards is carefully limited to avoid abuse and excess. This is a good piece of legislation—one that demands action now. To put it off any longer could doom this proposal as time runs short later this year.

In my judgment, it is time for Congress to do something about this problem. I think the Senate knows that I have other legislation pending which I think is sort of old fashioned, but I believe spies just ought to be shot. As a matter of fact, the Senator from Arizona told me just now he thinks they ought to be hung using a loose rope.

I do not think there is anything about our system in the United States today that infuriates me as much as the increasing tendency of Americans to spy on their own Government and to do so because of the motivation of profit.

It is time for us to take a major step to discourage individuals from selling information, and if we do so, I think we will take action to remove the incentive to commit the espionage in the first place.

As I said, this amendment would confiscate the proceeds of espionage activities and turn the table on those who spy against their own country by paying individuals who provide information on the spying activities. The tool we would create with this legislation to fight espionage is very similar to that we are using in the drug enforcement area.

I think the Senate is well aware of that.

Mr. ANDREWS. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ANDREWS. I appreciate my colleague yielding and I am proud to join him in this effort because of all the kinds of heinous acts against our people, the selling out of our Nation's secrets for profit is perhaps the worst.

You can talk about ideology, you can talk about people who disagree with what is going on within the Government, you can talk about general spying. They are all bad enough. But spying for pay for those 40 pieces of silver has absolutely no place, Mr. President, in this society of ours. Spying for profit, selling out your friends, your family, your neighbors, for a few dollars is the worst, the most treasonable act anyone can engage in against our people.

I would hope that we would be able to put this kind of stiff regulation in wherein we would confiscate any of the profit, any of the profit from writing the books or taking part in a movie later on, celebrating this great spy case or whatever it might be. Not only that, but I am totally inclined to go along with my colleague when he quotes our colleague from Arizona in saying, "These are the kinds of people who ought to be shot because there is absolutely no justification for spying, for espionage, for profit."

I applaud my colleague for introducing this amendment. We cosponsored the legislation. It would be my hope that the leaders of the debate of this bill will accept this amendment because it is long overdue.

Mr. STEVENS. Mr. President, I thank the Senator from North Dakota. He has been in the forefront of those who have tried the assist to work out this legislation. I think we should mention Senator DENTON, who has worked very hard to see to it that the legislation be brought to the floor.

There is no question about it that we are now dealing with a different phenomenon in our country with this increased activity of espionage for money.

I have introduced legislation to make certain that that kind of activity, espionage for profit against our own Government, is considered treason.

□ 1430

I consider it to be treason and I think the country believes it is treason. This amendment has been carefully drafted. It does not affect those people who go out and study the activities of a convicted spy and present to the country the story of that type of activity. What it does is prevent the person who is convicted of espionage from profiting from the act and forfeit whatever that person received in connection with the espionage activity.

There is no reason to allow them to keep their ill-gotten gains and there is no reason to allow them to sell for any purpose the story of their actions.

Mr. President, I hope that the Senate will adopt this amendment. It is time for us to take this action, particularly in view of the number of cases that are pending right now in which substantial sums will be retained by those who have been involved if Congress does not act.

● Mr. MURKOWSKI. Mr. President, as a member of the Senate Select Committee on Intelligence I am acutely aware of the problem of espionage against the United States. Soviet bloc intelligence services spare no effort or expense in a relentless effort to steal scientific, technical, and defense secrets from the West. A single technical document can save Moscow years and hundreds of millions of dollars in re-

search and development. Super-sophisticated U.S. intelligence systems, upon which our security depends, can be compromised in a few minutes by a traitor with special knowledge. Any reader of the newspaper in recent weeks knows these are not hypothetical possibilities; they are case histories.

We have seen the emergence of a new breed of spy, unscrupulous mercenaries willing to sell out their country for cash. Spying has become a lucrative business. Men like Walker and Whitworth apparently received hundreds of thousands of dollars for the information they provided. Walker, now that he has been caught, has embarked on a new money-making scheme to sell his story to a publisher. The more notorious the author, the fatter the royalties.

Why should espionage pay? It should not, and passage of the amendment will make sure it does not. It is time to make it abundantly clear that there will be no opportunity for the Walkers and their ilk to keep their ill gotten gains. Espionage is not fun and games. Anyone contemplating spying against this country must know that there will be no pot of gold at the end of the rainbow—only a very long stay in prison.

Mr. President, the amendment offered by Senator STEVENS is right on point. It prevents spies from taking advantage of their illegal activities, and says that spies cannot profit by receiving financial rewards from book royalties, movie rights, and similar arrangements. Clearly, Mr. President, the Senate must say loud and clear that spies cannot become "media stars" from their illegal activities. I urge my colleagues to support this important amendment.●

● Mr. DENTON. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Alaska (Mr. STEVENS) which incorporates the substance of S. 1654. The original bill, which was unanimously approved by the Judiciary Committee on June 12, 1986, will amend title 18 U.S.C. to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informations providing information leading to arrests in espionage cases. I commend Senator STEVENS for his leadership in this area and I am only too happy to join as an original cosponsor of this amendment.

Mr. President, recent events surrounding the Walker and other espionage cases have made it abundantly clear that the threat of espionage is real and pervasive. The Soviet Union, its client-states, and other hostile countries have a massive effort underway in this country to amass large amounts of material about our military secrets and technology.

The foreign intelligence-gathering in the United States has caused untold damage to our national security. The technological lead enjoyed by the United States in certain defense-related areas has been seriously eroded by the foreign success in obtaining classified scientific and technical information. In addition, spying has cost our country billings of dollars in stolen technology and military secrets. To reverse the trend, we must remove the financial incentive for those persons who would assist these foreign spies by engaging in espionage activity.

This amendment will remove the financial incentive and will aid in the battle against espionage. The amendment contains three separate provisions.

First, it requires that convicted spies forfeit all proceeds from their espionage activities by incorporating by reference the forfeiture provisions contained in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. section 853);

Second, it requires that any proceeds from publication or television rights to the story on, or interviews of, convicted spies be forfeited (Mirroring the Son-of-Sam provisions contained in 18 U.S.C. section 3671);

Third, it establishes a new fund to reward those whose information leads to the arrest or conviction of spies (mirroring the rewards provision contained in the Rewards for Information Concerning Terrorism Act, 18 U.S.C. section 3071).

Mr. President, I am pleased that Senator STEVENS has accepted, at my suggestion, language which will make the provisions of the amendment applicable to members of the Armed Forces convicted of espionage pursuant to the Uniform Code of Military Justice, as well as those individuals convicted under title 18 of the United States Code.

This amendment represents a necessary tool in our fight against espionage. I urge my colleagues to support it.●

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of this amendment. Simply stated, it will apply existing Federal procedures for forfeiture of criminal proceeds, and rewards for informants, to espionage cases.

We have all been shocked by the wave of espionage cases that have occurred in the Defense Department, among Defense contractors, and even in the intelligence agencies. Perhaps the most ominous development was revealed in the Walker case. Whatever other factors may have motivated John Walker to betray his country's defense secrets to the Soviet Union, his cynical attention appeared to focus primarily on the money he stood to make from his activities.

This amendment squarely addresses the ill-gotten gains from espionage and the incentive to turn in those suspected of this crime. It will be a useful contribution in our effort to see to it that espionage will never be seen to pay, and that those actually or contemplating spying for foreign powers recognize that others could be rewarded for providing information that leads to their arrest.

I want to congratulate Senator STEVENS for his initiative, and Senator DENTON, chairman of the Subcommittee on Security and Terrorism, who worked closely with me on the Denton/Leahy substitute which became the final draft of this bill.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield for a question to the Senator from Maryland.

Mr. MATHIAS. My question arises from the so-called Son of Sam provision of this amendment, which would prevent persons convicted of certain espionage offenses from profiting by writing about their crimes. It is surely a repulsive spectacle when an individual profits from the commercial exploitation of his crimes against the United States, and I am in complete sympathy with the Senator's effort to divert that profit stream. Nonetheless, I am also concerned about the degree to which any "Son of Sam" provision burdens the exercise of first amendment rights. Am I correct in my understanding that this amendment is modeled after the "Son of Sam" provision that Congress enacted in the Comprehensive Crime Control Act of 1984, and that now is codified at 18 U.S.C section 3671?

Mr. STEVENS. The Senator is correct. I am offering this legislation so that the forfeiture remedies that were made available to the Government in the Comprehensive Crime Control Act of 1984 with respect to crimes of violence can be used against those who are convicted of violating certain specified espionage statutes.

Mr. MATHIAS. Am I also correct that it is not the Senator's intent to inhibit in any way the right of a third person to write or publish an account of the crimes that a convicted spy committed against the United States?

Mr. STEVENS. The Senator is correct. Let me quote from a portion of the Judiciary Committee's report on the 1984 "Son of Sam" legislation. I am confident that it will help clarify the scope of the forfeiture provision that I am offering:

> . . . the [ ] amendment refers to money payable to the defendant's "transferee," rather than "any other party." This is to ensure that innocent third parties, such as Truman Capote, the author of "In Cold Blood," or other authors who have not participated in criminal conduct and who wish to depict the defendant's crime, are not affected by the proposed rule change.
> (S. Rep. No. 98-497 at 6.)

The "In Cold Blood" example is instructive here, since the corresponding provision in this legislation is not intended to reach an innocent third party who was not convicted of espionage when that third party writes or publishes an account of the events surrounding the espionage offense. It would apply to any proceeds due to the convicted spy or any part of the

convicted spy's share that he has diverted to some third person.

Mr. MATHIAS. I thank the Senator from Alaska for that clarification. I have one additional question. One of the statutes covered by this amendment is 18 U.S.C. 793. As the Senator knows, an important case under that statute was recently concluded in my home State of Maryland. In that case, the jury convicted Samuel Morison of providing certain classified photographs to Jane's Defense Weekly.

I raise this point because the prosecution of Mr. Morison under section 793 is unprecedented, has wide-ranging first amendment implications, and is currently on appeal. In other words, the law in this area may be in a state of flux. Would the Senator's amendment have any effect on the substantive reach of section 793?

Mr. STEVENS. It is not my intent to affect in any way the definition of the underlying offenses to which this legislation would apply. Thus, this legislation should have no impact on the judicial interpretation of section 793. It would simply provide the Government with the opportunity to seek an additional remedy against someone finally convicted under that statute.

Mr. MATHIAS. I thank the Senator from Alaska.

Mr. STEVENS. Let me amplify the comments I have just had with Senator MATHIAS to emphasize again that this is not any attempt to invade the other areas of the Federal Code. Nor is it an attempt to in any way prevent a third party from engaging in the business of writing either for the print media or for the air or television media the stories of those who have been involved in these kinds of activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I am pleased to answer any questions my colleagues may have.

Mr. METZENBAUM. Mr. President, I do not think any of us would speak in opposition to the amendment of the Senator from Alaska with respect to the forfeiture of funds gained from espionage or from writing relative to that or removing pictures. I think we all support that concept. This language is, I think, identical with language that has been in the Judiciary Committee for several weeks.

We have been wrestling with one aspect of the problem I would like to discuss with my colleague from Alaska. That has to do with the question of the right of a defendant to have legal counsel and the concern that has been expressed that assumes the individual did engage in espionage or it was alleged that he did and then he hires counsel. As I understand it, under this provision, those funds that would have been paid to counsel could be forfeited as well. As a consequence, the individual might not be in a position to be represented by a lawyer. He is not guilty until he is found guilty.

I wonder whether or not it is the intent of the author of the amendment to preclude the right of the defendant to have legal counsel, even though it very well might be that some portion of those funds would be expended for legal counsel. Some thought has been given to giving the judiciary, the judge handling the case, some discretionary authority in connection with this subject. Would the Senator from Alaska care to indicate his thoughts on that subject?

Mr. STEVENS. Mr. President, we have no intention of changing the normal treatment of attorneys' fees in such circumstances. If an attorney has reason to know that his client is paying him the proceeds that he has obtained by committing a crime, then the money in the hand of the attorney is forfeitable. If he does not have reason to suspect that, then it is another matter.

It is my understanding that this has been handled this way in other circumstances, it does not come up just in connection with this case. If a person robs a bank and is on trial and the lawyer who is defending that person knows that the money he has received is part of the loot from the bank, he cannot keep that. I think those of us in our profession understand that full well. We are not seeking to change that.

Mr. STEVENS. I say to my friend from Ohio, I understand what he is saying. I have no intention of changing the normal treatment of attorney-client relationship nor the right of the attorney to be paid. Unless he has reason to believe that the money he receives is part of the proceeds of the crime, we do not affect his status.

Mr. METZENBAUM. I appreciate the comment of the Senator from Alaska. I think it goes most of the way to the thing about which I have concern. But let us assume for the moment that the attorney were to know where the proceeds came from but that for a host of other reasons, he was convinced that the defendant was not guilty. The man might have the money but he might not be guilty for any one of a number of reasons, including the conceivable reason of statute of limitations, that it was out of the jurisdiction of the court, that there was some violation of his rights as to how the information was obtained, that there was an unlawful search and seizure.

I am not trying to make out a case for any particular individual, but my colleague and I are both lawyers. I think we would both agree that a lawyer would not be held responsible or should not be called upon to make a judicial determination as to whether his client is or is not guilty.

I think it is reasonable to assume that the lawyer taking the individual's case is taking it on the basis that he—assuming he is going to put in a "not guilty" plea—that he in his mind feels that there is a chance of having the defendant found not guilty. All I want to do is let the individual, whoever he may be—whether he is accused of the most heinous crime, and certainly espionage has to be included in that category—to let that individual have legal counsel. Some have suggested that the courts could appoint counsel, but I think we would agree that if the individual had funds, and certainly substantial funds, it would not be reasonable to expect that the court would appoint counsel.

I have that one reservation concerning the Senator's response, which indicated that if he knew the man was guilty or where the money came from. I think he has practiced law long enough and I have practiced law long enough to know that nobody is guilty until the court has found the individual guilty and that every person has the right to have his day in court.

Mr. STEVENS. Mr. President, we have been in the practice of law for a long time, and I was the Government attorney in my State for 3 years, and I know some of these issues come up in a hard way.

I say to the Senator from Ohio that they cannot come under this amendment in any more difficult circumstances than they do in a drug situation today with all the drug cases we see, with tremendous funds being received by those peddling drugs. When we do apprehend them, we regain some of that money. We find that the defendant has received money and upon conviction, there are existing statutes which allow for forfeiture. As a matter of fact, this bill, as the Senator knows, is patterned after the drug statute that requires the forfeiture of the money received by the defendant who has been convicted of violating the law relating to drugs.

I say to my friend that this amendment before us does not require a forfeiture until conviction and it puts in the hands of the court that imposes the sentence the duty to order the forfeiture to the United States of the property we have listed as being subject to forfeiture. It is similar, as I said, to the drug statute.

Mr. METZENBAUM. I know it cannot cause a forfeiture of attorneys' fees as such. That is not indicated by implication or otherwise. Am I correct in my understanding?

□ 1440

Mr. STEVENS. The Senator is correct in the sense that we, of course, are not trying to require that—but if the court, following the normal procedures, would find that the attorney had knowledge of the source of the moneys he received, the court could order forfeiture of the moneys in the hands of the attorney in whole or in part, depending on what the court decides under the circumstances. But it is the Comprehensive Drug Abuse and Prevention and Control Act that has been the guide and it does, as I said,

deal with the forfeiture of such funds that have been received and gives the authority to the court to order such other disposition of the property as it sees fit.

I think we have to leave this issue, Mr. President, where it has been in the past, and that is with the judge who presides over the case. Obviously, what the Senator from Ohio says is right, that until conviction the attorney is not in any way in a position of facing a forfeiture of moneys that have come into his hands as a result of his relationship with the defendant. But if he has knowledge and it can be shown and the court decides the attorney had knowledge the money the defendant delivered to him was received from proceeds of espionage or the proceeds of selling drugs, they are treated the same. It is up to the court to determine what should be forfeited under this statute.

Mr. METZENBAUM. Is it my understanding that the amendment of the Senator from Alaska is intended to be interpreted in the same manner the courts have interpreted the drug-related cases?

Mr. STEVENS. That is correct.

Mr. METZENBAUM. I have no further questions, Mr. President.

Mr. LUGAR. Mr. President, as a cosponsor of the amendment, I certainly commend the distinguished Senator from Alaska for a very important amendment. On our side, we are prepared to accept the amendment.

Mr. PELL. Mr. President, the colloquy between the Senator from Alaska and the Senator from Ohio cleared up one of the problems that might have been with us in approving this amendment. We think it is a good amendment and, as far as I know on my side, there is no objection to it. I recommend we go forward.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2184) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Senator from Indiana and the Senator from Rhode Island. I appreciate the contribution the Senator from Ohio has made to the legislative history on this amendment.

Mr. LUGAR. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF DANIEL A. MANION

Mr. LUGAR. Mr. President, I want to take a moment to express the strong support I have for Dan Manion, who is being considered for an important judgeship. There will be a vote held on this floor tomorrow afternoon on cloture, so that we might proceed to a vote on Dan Manion.

He is a Hoosier, which means a resident of the State of Indiana. Beyond that, he has served in a distinguished capacity for 4 years as a State senator. He was elected in the South Bend area to that seat. I have know him, have campaigned with him, have been involved with him in politics in South Bend and have a very good idea of the support on both sides of the aisle that Dan Manion enjoys from both Democrats and Republicans. He has that support in his home town, which is a sizable city, a complex city, a city in which the voters are narrowly divided between Democrats and Republicans, in which independent voters have cast their lot with people of quality.

Mr. President, in my association with Dan Manion, I have found him to be a person of vigor, of character, and of intelligence. Very clearly, in his work in behalf of the people of the State of Indiana, he has demonstrated qualities which have led to very strong support in our State and very strong support from many persons around the Nation for his nomination.

I mention all this because there has been, I have noticed, a national campaign of persons who are not so well acquainted with Mr. Manion. I appreciate the nature of the argument that is being made. In short, many persons around the country believe that Dan Manion is a conservative and some believe he is too conservative for the courts and for issues that he might consider.

I think it is a misfortune that the issue has been cast in this mold. I appreciate that others have said that that really is not the issue. We are not persuaded that persons are either too conservative or too liberal but, rather, we are talking about competence. We are talking about specific opinions that have been written. We are talking about specific activities as part of legislative and administrative abilities.

Mr. President, I say in all candor that those who are attempting to make a case on the basis of competence have had to stretch very far. As a matter of fact, Dan Manion is a very competent human being, a very competent public servant, a person, I believe, of extraordinary force as he has presented conservative ideas in the State legislature—some of them adopted, some of them not. Clearly, he has acquitted himself well. I know of no one in Hoosier politics who ever thought he lacked confidence or lacked the ability to handle himself well in public life and with public issues.

Mr. President, I hope that as we take a look at this vote on cloture tomorrow, we take a look at another issue, and that is basic fairness to a nominee, a nominee for a very important office. In my judgment, most Americans believe that Mr. Manion ought to receive a vote up or down on the basis of his record, on the basis of the President's nomination of him for this high position.

I appreciate that legal scholars have been combing through the years to try to find if there is a single other instance in which a nominee for a judgeship has been blocked on the Senate floor by extended debate or filibuster. That instance, I think, for the particular office Mr. Manion seeks, has not been found, and for good reason.

Senators, whether Republicans or Democrats, believe in fairness. They believe in taking a look at the man or the woman, the nominee; the President who has made the nomination; the circumstances of that nomination.

I hope that precedent will prevail again, that there will be a strong vote for cloture, so that the debate can proceed after tomorrow on the merits of the case.

Senator DAN QUAYLE of Indiana and I, as those who are happy to count Dan Manion as our constituent, look forward to making a strong case on the merits for this nominee, the nominee of the President, for whom we have very great respect.

□ 1500

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1510

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

AMENDMENT NO. 2185

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2185.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place insert the following:

TITLE .—VICTIMS OF TERRORISM COMPENSATION

SEC 801. SHORT TITLE.

This title may be cited as the "Victims of Terrorism Compensation Act".

SEC. 802. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 5569. Benefits for captives

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the civil service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services);

"(2) the term 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member', as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

"(2) A payment under this subsection in the case of any individual held as a captive shall be not less than the amount of the world-wide average per diem rate which would be payable to any person under section 5702 of this title, based on—

"(A) a period of time equal to the period for which such individual was held as a captive; and

"(B) the world-wide average per diem rate which, during the period of captivity involved, was in effect under such section.

"(3) The President—

"(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

"(j) The President may prescribe regulations necessary to administer this section.

"§ 5570. Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the civil service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after September 30, 1985.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.
"5570. Compensation for disability or death.".

SEC. 803. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

SEC. 804. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 802(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code.

SEC. 805. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Benefits for members held as captives

"(a) In this section—

"(1) 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of the enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such period of captivity; and

"(2) 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

"(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

"(c)(1) Except as provided in paragraph (3) of this subsection, the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) The amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

"(3)(A) The President—

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) of this subsection that is later denied under paragraph (3)(A)(ii) of this subsection is a claim of the United States Government for purposes of section 3711 of title 31.

"(d) A determination by the President under subsection (a)(1) or (c) of this section is final and is not subject to judicial review.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051. Disability and death compensation: dependents of members held as captives

"(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

"(1) 'Captive status' has the meaning given that term in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"(3) 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Disability and death compensation: dependents of members held as captives.".

(3) Section 1051 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after September 30, 1985.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

"(c) In this section:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Medical care: members held as captives and their dependents.".

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS

"Sec.

"2181. Definitions.

"2182. Educational assistance: dependents of captives.

"2183. Educational assistance: former captives.

"2184. Termination of assistance.

"2185. Programs to be consistent with programs administered by the Veterans' Administration.

"§ 2181. Definitions

In this chapter:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a dependent of a person who is in a captive status for education or training that occurs—

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the educational or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

"(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discontinued for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 1724 of title 38; and

"(2) may not be provided for any person for more than 45 months (or the equivalent in other than full-time education or training).

"§ 2185. Programs to be consistent with programs administered by the Veterans' Administration

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents ..... 2181".

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1), shall apply with respect to persons whose captive status begins after January 21, 1981.

SEC. 806. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

Mr. MATHIAS. Mr. President, this is an amendment to offer comprehensive compensation for American victims of terrorism abroad. This legislation has already been considered in the other body. In fact, a similar measure has been approved in the other body.

Its purpose is very straightforward. It would establish a permanent program to protect our diplomats, diplomatic families and foreign nationals whom we employ in our Embassies and our consulates around the world. If we are to engage able and well-educated individuals to serve abroad, we have to provide assurance that not only they but their families will receive educational and medical benefits in the event of a terrorist attack or, God forbid, in the event that they are taken hostage and held for prolonged periods of time.

The likelihood of such catastrophic events would at one time have been considered very remote. And for that

reason, among others, no comprehensive program was established to meet such contingencies. As a result, we have yet to provide the hostages who were held in Iran and their families with any kind of adequate compensation for the experience which they endured as a direct consequence of their employment by the United States of America.

This amendment would only offer a just settlement to the hostages who went through those long days in Tehran, but it would establish a rational basis for compensating victims of such terrorism in the future.

I hold—and I am sure that every Senator would agree—that we have a moral obligation to those to whom we appoint to represent our interests all over the world. I think it is absolutely necessary that we be able to promise employees and their families that they and their survivors will be cared for if they are injured or killed in an attack or if they are held as hostages over a long period of time.

If we put an American employee's or official's family at risk by authorizing them to accompany him or her to a dangerous spot, then we have the normal employer's obligation to pay the medical expenses of the family member injured in an attack. If a former hostage is unable to return to active duty as a result of some traumatic incident, I think we have, as an employer, the normal employer's obligation to help in his or her retraining for other duties.

Furthermore, I think we must do what we can to continue to attract the most qualified foreign nationals who serve important secondary services at Embassies and consulates abroad. The State Department reports that it is becoming more and more difficult to recruit able employees because of the increased danger and because of the lack of prospects of any permanent relief if some problems of the kind I have been discussing should occur.

□ 1520

Now, I am well aware that there is considerable concern that the eligibility requirements of this legislation are too broad. One specific complaint is that it would cover employees of contractors who build Embassies and consulates. That is not an immaterial point in the light of the general purposes of this bill which will contemplate a serious construction activity. I would point out, however, that such employees are already covered by workmen's compensation for being part of the contract signed by the construction firms before they can begin on the project.

Such issues have been cited as compelling reasons to separate the terrorism compensation title of the bill from the other body from the legislation which is now before us. I respect the commitment to write and report a separate bill devoted to this problem.

But in all due respect I hardly think that we should wait on this subject. I am confident that some of the most specific terms that may be unacceptable to some Members such as the use of worldwide per diem or other rates for compensation in the hostage case can be worked out in conference. The State Department has offered to clarify and tighten any language in the bill with the other body that will ensure that only deserving cases receive benefits under the legislation.

But the fact is, the fact that we all have to live with, the fact that I think should weigh upon our consciences, all Americans, all of our officials, all of our employees abroad remain today without the kind of basic protection they deserve in the truly dangerous circumstances in which they live and work. The other body has already acted to correct this oversight in an effective, economical, and just manner. And I submit, Mr. President, that it is incumbent upon us to respect that work and to carry it through to completion without delay.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Maryland has spoken eloquently as always to a very important point that is especially poignant with regard to those who have served our country in the foreign service in its broad sense in the past. And clearly, as the distinguished Senator from Maryland has pointed out, the House of Representatives as it thought about Embassy security legislation decided to address this problem of victims of terrorism compensation very directly and included title VIII in their bill. The Senate Foreign Relations Committee decided not to include title VIII in our markup largely because there were problems raised as the Senator from Maryland has mentioned, of the levels of compensation and and who would be covered.

Further, in a technical and jurisdictional sense, Mr. President, there were claims on this issue by several committees of the Senate for various reasons. There were calls for sequential referral, and we simply tried to meet this by indicating that we see the item as very important, and one on which separate legislation with separate hearings might be appropriate.

The distinguished Senator from Maryland already has mentioned in his remarks the fact that the House of Representatives has such a provision in its bill, and therefore the victims of terrorism compensation at this time will be a part of the conference with the House and the Senate in view of the fact that it is a conferenceable item. We will have an opportunity to discuss it.

I hope, perhaps, he would be willing to withdraw the amendment from consideration today on this bill with assurances that there are many Senators who will be members of that conference who have been made much more knowledgeable by the Senator's remarks today. Sensitivity clearly is an issue that is involved. With the intensity with which he is pressing these issues upon us, and in view of our sensitivity and our interest, I hope he will withdraw the amendment today and take part in that conference with others who share the concern and idealism he has expressed.

Mr. PELL. Mr. President, I share the sentiments of our chairman. I commend the Senator from Maryland for this amendment. As a former member of the Foreign Services I am particularly in sympathy with the travails of those men and women in today's world. But those in the military service receive rewards for different dangers, different risks, and different blows of fortune. If you are wounded, you get a Purple Heart. You get certain benefits if you are an invalid at home. If you are killed, your family gets certain benefits. If you are a prisoner of war, you get certain benefits. But to be a hostage is like being a prisoner of war only with greater risk in it, greater mental horror, and harassment because you do not know if you are going to survive. If you are a prisoner of war, you know that under the Geneva Convention you will be returned unless something dreadful happens. If you are a hostage, you have no idea whether you will be returned or not be returned, or shot in the back of your head instead.

So our people who are exposed to these dangers really deserve to be recompensed at at least the same standard or level that we do for our military. I hope this will be a criterion that will follow in the conference.

But in the meantime, I agree it probably would be best if this amendment is withdrawn at this time.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I am reluctantly persuaded by the managers of the bill. I am persuaded, I must say to them with all due respect, not so much because of their arguments but because of their personal assurances that this matter will be considered in conference. As a little backup in my personal confidence in them, I even have the temerity to hope that I might be a conferee myself, and will be watching.

So I think under those circumstances the position that we have stated is a reasonable one. Therefore, I withdraw the amendment.

AMENDMENT NO. 2186

Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2186.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, insert the following new section:

SEC. 702. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the U.S. Agency for International Development (AID), or the United States Information Agency (USIA) from participation (including use of staff, other appropriate resources and service on the board of the USTTI) in support of any activities of the United States Telecommunications Training Institute (USTTI).

Mr. MATHIAS. Mr. President, The amendment I am offering, expressing support for the activities of the U.S. Telecommunications Training Institute, is not a contentious one and is similar to language which was attached in 1984 to the Cable Communications Policy Act. The USTTI is a nonprofit corporation sustained by private sector contributions and the volunteer services of those who sit on the board. Since 1982, this institute has offered tuition-free training to qualified telecommunications professionals from the developing world. The institute's success in equipping its participants with valuable training and a better understanding of the United States and its telecommunications industry is due in part to the working partnership between Government leaders and chief executives in the telecommunications field. This amendment simply clarifies that this cooperation between Government and corporate leaders does not present a "conflict of interest" on the part of the USTTI's Government board members.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the Senator from Maryland has presented an important clarification. It is important there not be conflict of interest. He has made a good commendation in the course of his statement. On our side, we are prepared to accept the amendment. I have been advised by the distinguished ranking member of the Foreign Relations Committee, Senator PELL, that the Democratic side is likewise prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on the agreeing to the amendment of the Senator from Maryland.

The amendment (No. 2186) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, shortly I shall be proposing two amendments which have been discussed with the distinguished chairman of the Foreign Relations Committee and have been cleared on both sides of the aisle, amendments which deal with the subject of terrorism. For some time now, Mr. President, it has been apparent to everyone in the world that firm action had to be taken against terrorist attacks. Starting back in mid-1984, I introduced a series of legislative enactments, resolutions, and proposed bills to deal with terrorism. The matters first came to my attention as matters of some urgency with the April 10, 1984, shooting of the British policewoman by the Libyan diplomat.

□ 1530

Following that, I submitted a sense-of-the-Senate resolution seeking to limit diplomatic immunity because if anything is clear, it is clear that diplomatic immunity does not comprehend the shooting of a policewoman. That is not an act of diplomacy. I called at that time for a provision in the convention on diplomatic immunity.

Subsequent to 1984, there has been a series of terrorist acts taking American lives around the world, the lives of innocent American soldiers, and the lives of tourists around the world, calling for some firm action.

The two measures which I will offer deal with the effort of attacking the problem of terrorism, first by making it an international crime, with an international definition of terrorism, and, second, awaiting action for such an international definition of terrorism, legislation which would provide that it is a violation of the laws of the United States to attack, maim, or murder a U.S. citizen anywhere in the world.

The latter legislation passed this body on February 18 of this year by a vote of 90 to 0. I seek to attach it as an amendment to this legislation. It will be in the conference with the House and will be enacted into law, it will be signed by the President, and will provide much needed protection.

AMENDMENT NO. 2187

(Purpose: Expressing the sense of the Senate that the President should call for international negotiations to make international terrorism a universal crime prosecutable in the United States)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2187.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following: In the past decade there have been nearly 6,500 terrorist incidents around the world, killing over 3,500 people and wounding more than 7,600, including over 2,500 incidents against Americans.

Terrorism anywhere affects nations everywhere by chilling the free exercise of sovereign authority;

Rampant terrorism by its very nature threatens world order and thereby all civilized nations and their citizens;

Any and every nation has the right, under current principles of international law, to assert jurisdiction over offenses considered to be "universal crimes", such as piracy and slavery, in order to protect sovereign authority, universal values, and the interests of mankind; and

Individuals committing "universal crimes" may be prosecuted in any nation in which the offender may be found, irrespective of the nationality of the offender or victim or the place of the offense: Now, therefore,

It is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of "international terrorist crimes" and for the purpose of considering whether such a crime would constitute a universal crime under international law. Such definition should require that acts constituting an international terrorist crime—

(1) involve the threat or use of violence or be dangerous to human life,

(2) would be a crime in the prosecuting jurisdiction if committed within its boundaries,

(3) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(4) transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

The President should also consider including in these international negotiations the possibility of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals at Nuremburg, Germany, that would have jurisdiction over the crime of international terrorism.

Mr. SPECTER. The essence of this amendment is to provide two resolution clauses. First, that it is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of international terrorist crimes and for the purpose of considering whether such a crime would constitute a universal crime under international law.

The second aspect of the resolution calls for the President to consider including in these international negotiations the possibility of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals in

Nuremberg, Germany, which would have jurisdiction over the crime of international terrorism.

Mr. President, I suggest there is ample precedent for declaring terrorism an international crime. Piracy has long been an international crime, and in defining piracy as an international crime, it differed from the general concept that the crime could be prosecuted only in the jurisdiction where it was committed.

As, for example, if a crime were committed in the United States, for example, in my home State of Pennsylvania, it customarily could be prosecuted only in Pennsylvania. An international crime such as terrorism could be so defined that a terrorist could be prosecuted wherever he would be apprehended because terrorism is such a serious offense.

The act of torture has received some status as international crime. I think the time has come, Mr. President, that terrorism should be defined as an international crime. If such a definition can be agreed upon, we ought to look to the future to having the crime of terrorism and the terrorist defendants tried in an international tribunal similar to Nuremberg.

Mr. President, I realize that it is a difficult matter to achieve such a definition and to set up such an international tribunal, considering all the factors of national sovereignty and the difficulty of getting nations to act together. But it is the view of this Senator that such action will really put the imprimatur and the stamp on terrorism as an act which the world community will not tolerate. If these crimes were prosecuted in a world tribunal, there could be no question that such prosecutions, as distinguished from prosecutions of any specific nature, in an international tribunal would have much greater force and much greater weight than those prosecutions in an individual state.

That is the first amendment which I seek to offer, Mr. President, at this time.

At this time I yield to the distinguished chairman of the Foreign Relations Committee.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from Pennsylvania for this amendment. He has been a scholar in this field, both as a U.S. Senator and as a distinguished prosecutor, a district attorney. We believe that the amendment is a sound one and we are prepared to accept it on this side.

Mr. PELL. Mr. President, I have one question I would like to be enlightened upon. That is in view of the fact that a crime is committed outside the United States in another country's jurisdiction, do we have now in the law the right to bring that particular criminal, or whatever you want to call him who carried out this act, under the jurisdiction of our own courts, or does that, as a matter of custom, remain under the courts of the country where the crime was committed?

Mr. SPECTER. The question which the distinguished ranking Member raises relates more directly to the next amendment I will offer, which makes it a violation of U.S. law and an act prosecutable in U.S. courts even if the act were committed in some other country.

On that subject, there is solid precedent as a matter of international law that the United States may prosecute in U.S. courts an attack or a crime against the United States anywhere in the world regardless of the locale where the crime was committed.

On the amendment now pending, it encourages the President to work for an international definition of terrorism, with those acts prosecuted in international court.

There is no question about the jurisdiction of such an international tribunal to move to prosecute defendants in that context, where an act was committed anywhere in the world.

Mr. PELL. But in the present body of international law, is terrorism recognized as a crime?

Mr. SPECTER. I would think it is, but not with sufficient clarity so there is one coherent, cohesive definition of terrorism.

I believe there would be precedent for a nation to define terrorism in a variety of ways and to make it stick as a matter of national law and as a matter of international law. But there are some who would disagree with what is a justifiable definition of terrorism.

Some have said that one man's fear is another man's terror. That is why this Senator believes that there ought to be an international tribunal for international consideration. It would be a broader definition of what we in the United States would find to be an act of terrorism. Let others have input and let us try to reach an international consensus on terrorism.

Mr. PELL. But the international arbiter would be the International Court of Justice at The Hague. Have they had any cases of international terrorism?

Mr. SPECTER. I think that many would not recognize the International Court of The Hague as being the arbiter.

Mr. PELL. Who would?

Mr. SPECTER. The answer is that no one is the arbiter. The international law is defined most frequently as international narrowly. The fact is that international law customarily turns on where power lies, where force lies, and where the ability lies to carry out what nations seek to achieve.

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So we do not have international law in so many situations involving international disagreements. There are some narrow ranges of international law on an international commercial transaction, maybe the U.S. district court for Washington, DC. But if you are talking about terrorism, talking about conflict, talking about encroachment, talking about acts of war maybe, there are wide differences of opinion as to what the act of the law is.

Mr. PELL. Mr. President, the reason I felt this should be pursued is that I understand this coming week, or later on this week, the International Court of Justice is going to come out with a case in which it is inferred that terrorists are our own people—Contras, and so forth—in Nicaragua. So I withdraw from suggesting the ICJ as an arbiter and turn again to asking whether we are not now creating a new body of law—which may be a good idea.

Mr. SPECTER. We may be creating a new body of law. Every time there is a judicial decision, in a sense, there is a new body of law. That is the way the common law functions.

A case arises, the court makes a decision, and the law is established on the relationship of that particular transaction or occurrence with those parties. That is the way the law evolves. When Congress passes a legislative enactment, we create many laws and there are many interpretations. Frequently, courts cannot agree among themselves as to what it has done—as in the circuit court of appeals this spring. The process of establishing the law is a very complex procedure. The thrust of this amendment is to try to bring some international focus on this critical aspect of terrorism so that it is not merely a U.S. determination.

Mr. PELL. Mr. President, I asked a theoretical question. Let us say that, in Central America, a Contra machineguns a bus and some people are killed there. Would they then be justified in passing a law in their country having us return from Miami or the United States that individual if he were in the United States?

Mr. SPECTER. That is precisely the sort of question which I do not think this Senator can answer or this body should answer. That is precisely the kind of question which ought to be addressed by an international tribunal. There would be a different answer by the courts in the United States to that question as opposed to the courts of Nicaragua. That is precisely why this Senator believes that there ought to be an international focus, an effort by an international tribunal to define terrorism in a way that transcends the interests of the United States and transcends the interests of the Contras or the Sandinistas, and seeks a philosophical definition of terrorism which would satisfy all parties, including those involved in the disputes in Iran or those involved in the disputes in Afghanistan or Angola.

It is a very, very difficult assignment but I think it is one which ought to be tackled on the international level, one which is long past due.

Mr. PELL. I join my friend from Pennsylvania and I support the amendment. There is no objection.

Mr. SPECTER. Mr. President, I am happy the Senator supports the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2187) was agreed to.

Mr. SPECTER. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2188

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. LEAHY, and Mr. DENTON, proposes an amendment numbered 2188.

At the appropriate place in the bill add the following:

SEC.

(A) This section may be cited as the "Terrist Prosecution Act of 1985"

(B)(1) Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"2331. Findings and purpose.
"2332. Terrorist acts against United States nationals abroad.

"SEC. 2331. FINDINGS AND PURPOSE.

"The Congress hereby finds that—

"(a) between 1968 and 1985, there were over eight thousand incidents of international terrorism, over 50 per centum of which were directed against American targets;

"(b) it is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions;

"(c) terrorist attacks on Americans abroad threaten a fundamental function of our Government: that of protecting its citizens;

"(d) such attacks also threaten the ability of the United States to implement and maintain an effective foreign policy;

"(e) terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism as well as trade relations; and

"(f) the purpose of this chapter is to provide for the prosecution and punishment of persons who, in furtherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

"SEC. 2332. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever outside the United States commits any murder as defined in section 1111(a) of this title or manslaughter as defined in section 1112(a) of this title, or attempts or conspires to commit murder, of a national of the United States shall upon conviction in the case of murder be punished as provided in section 1111, for manslaughter be punished as provided in section 1112, for attempted murder be imprisoned for not more than twenty years, and for conspiracy be punished as provided by section 1117 of this title, notwithstanding that the offense occurred outside the United States.

"(b) Whoever outside the United States, with intent to cause serious bodily harm or significant loss of liberty, assaults, strikes, wounds, imprisons, or makes any other violent attack upon the person or liberty of any national of the United States or, if likely to endanger his person or liberty, makes violent attacks upon his business premises, private accommodations, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Whoever, outside of the United States conspires to commit murder, as defined in section 1111(a) of this title, within the United States of any national of the United States, shall be punished as provided in section 1117 of this title notwithstanding that the offense occurred outside the United States.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) No indictment for this section can be returned without the written approval of the Attorney General or his designee.".

(2) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following:

"113A. Terrorist acts against United States nationals abroad..... 2331".

Mr. SPECTER. Mr. President, this amendment is identical to S. 1429, which was adopted by the U.S. Senate on February 19, 1986, by a unanimous vote of 92 to zero. It is an amendment which has an extensive legislative history on a series of amendments or perfecting amendments which the Senator has introduced over the course of the past 2 years.

This amendment would expand U.S. law by making it a crime for anyone in any country to assault any U.S. citizen as part of an act of terrorism. This legislation would also preclude defendants in such cases from challenging the manner in which they were brought before the court.

A similar bill was originally introduced as S. 3018 in the 98th Congress.[1] This broader version now deserves prompt enactment.

We need not wait for international agreements to be finalized before we begin to exert the full force of the law against the terrorist menace. There are steps we can take right now, unilaterally, to expand our ability to protect our own citizens abroad.

Significant security measures have already been implemented at U.S. embassies and installations, and the new Overseas Security Advisory Council recently announced by Secretary Shultz should enhance the safety of corporate personnel in threatened areas throughout the world.

But there remains a critical gap in our arsenal against terrorism: murder of U.S. citizens outside our borders, other than of specially designed Government officials and diplomats, is not a crime under U.S. law.

I was stunned to realize that those responsible for murdering over 260 U.S. marines while they slept in their barracks in Lebanon are not guilty of any U.S. crime for their murder. Nor are those terrorists who cold-bloodedly shot two U.S. citizens during the hijacking in Kuwait. Existing law punishes only those who assault our diplomats. Under my bill, when a U.S. marine is killed or wounded in a bomb attack, an investigation can be initiated and the culprits can be brought to this country and prosecuted.

This act will in no way contravene or conflict with either international or constitutional law. While criminal jurisdiction is customarily limited to the place where the crime occurred, it is well-established constitutional doctrine that Congress has the power to apply U.S. law extraterritorially if it so chooses. (See e.g., *United States* v. *Bowman*, 260 U.S. 94, 98 (1922)).

International law also recognizes broader criminal jurisdiction. If an alleged crime occurs in a foreign country, a nation may still exercise jurisdiction over the defendant if the crime has a potential adverse effect upon its security or the operation of its governmental functions. This basis for jurisdiction over crimes committed outside the United States has been applied by the Federal courts in contexts ranging from drug smuggling to perjury. Clearly, then, the exercise of U.S. criminal jurisdiction is also justified to prosecute the terrorist who assaults or murders American personnel abroad. Such attacks undoubtedly have an adverse effect upon the conduct of our Government's foreign affairs, and potentially threaten the security interest of the United States as well.

But making terrorist murder a U.S. crime alone will not protect Americans abroad. We must also demonstrate our seriousness by applying the law with fierce determination. In many cases, the terrorist murderer will be extradited or seized with the cooperation of the Government in whose jurisdiction he or she is found. Yet, if the terrorist is hiding in a country like Lebanon, where the Government, such as it is, is powerless to aid in his removal, or in Lybia, where the Government is unwilling, more forceful intervention may be necessary.

This bill provides, in accord with constitutional and international law, the necessary subject matter jurisdiction to prosecute those who attack U.S. personnel abroad. But to obtain personal jurisdiction over the culprit himself, the suspect must first be seized or arrested and brought to the

[1] September 25, 1984.

United States to stand trial. Under current constitutional doctrine, both U.S. citizens and foreign nationals can be seized and brought to trial in the United States without violating due process of law. See, for example, *Frisbie* v. *Collins*, 342 U.S. 519, 522 (1952); *Ferr* v. *Illinois*, 119 U.S. 436 (1886).

It may surprise some to hear that such methods are an appropriate way to bring criminals to trial. If someone is charged or chargeable with an offense and is at liberty in some foreign country, it is an accepted principle of law to take that alleged criminal into custody if necessary and return him to the jurisdiction which has authority to try him. That prosecution and conviction is sustainable and is proper under the laws of the United States and under international law.

This principle has been in effect for almost 100 years, going back to 1886, in the landmark case of Kerr versus Illinois, where the State of Illinois kidnaped a defendant in Peru, a man being charged with a crime in Illinois, and brought him back to Illinois for trial, where he was convicted. The case went to the Supreme Court of the United States and the Supreme Court of the United States said it was appropriate to try that man in Illinois and to convict him notwithstanding the means which were used to bring him back to trial in that jurisdiction.

No country in the world, no country in the history of the development of law, has more rigorous concepts of the due process of law than the United States of America and the U.S. Supreme Court. That doctrine was upheld in an opinion written by Justice Hugo Black, well known for his concern about defendants' rights. In the case of Frisbie versus Collins, handed down by the Supreme Court of the United States in 1952 and upheld in later decisions.

In the Frisbie case, Justice Black stated:

> This court has never departed from the rule announced in *Kerr* v. *Illinois*, that the powers of a court to try a person for a crime is not impaired by the fact that he had been brought in the court's jurisdiction by reason of a forceable abduction.

I would suggest to Senators that in dealing with the crime of terrorism, we ought to find the terrorists when we have some reason to believe we know who they are. It requires an investigation. It requires pursuit. It may know who require extradition or, where extradition is not possible, it may require abduction to bring these vicious criminals to trial.

Resort to such tactics will not ordinarily be necessary. The nation where the offender is found may prosecute that person itself or that nation may extradite him or consent to a seizure by U.S. agents within its territory. In the rare instance, however, where there exists in effect no government capable of arresting or prosecuting the offender—and I would suggest that that situation exists in a nation like Lebanon today where there is hardly a government capable of enforcing law and order—in that extreme situation or wherever the terrorists may be found in nations which flagrantly violate international law or harbor international terrorists, then the United States may be compelled to use forceful methods to bring a terrorist to justice. And I would suggest that on a balancing test, that is an appropriate course of conduct.

It is the kind of forceful, effective action that the United States must be in a position to employ where necessary to respond to terrorist attacks against our citizens abroad. The legislation will accomplish that result.

I shall proceed at this juncture to summarize the thrust of this amendment.

The thrust of this amendment would make it a violation of U.S. law for a terrorist to attack, maim, murder, or assault a U.S. citizen anywhere in the world. This amendment is based upon the established principles of international law, that the United States has a sufficient interest or nexus so that even if the act occurred outside the territorial jurisdiction of the United States, judicial jurisdiction would attach in the U.S. courts.

Strange as it may seem, Mr. President, the United States of America could not have proceeded against the terrorists who brutally murdered 240 U.S. marines in Beirut. Strange as it may seem, the United States could not have proceeded against the terrorists who murdered the United States citizens in the Vienna and Rome airports. This bill seeks to correct that deficiency and to authorize the prosecution of these terrorists by the courts of the United States.

Mr. President, there is a little-known decision by the Supreme Court of the Untied States, handed down exactly 100 years ago, in 1886, which sets forth a sound jurisdictional base for this approach. The case was Kerr against Illinois. It involved a situation where Kerr, charged with fraud, had fled to Peru. While he was in Peru, he was arrested by Illinois authorities. You might say that he was abducted or even a harsher categorization would have been kidnapped.

In any event, Kerr was brought back bodily from Peru to Illinois, where he was prosecuted and convicted.

Kerr then challenged his conviction in the Supreme Court of the United States and the conviction was upheld, the Court saying it was appropriate to prosecute Kerr in the courts of the United States of America regardless of how he was brought back for that prosecution.

Later, Peru acquiesced in the United States action but Peru did not do so at the time Kerr was taken into custody.

The Eichmann case is another illustration, where the State of Israel took Eichmann from Argentina without consent by the Argentine Government, without extradition proceedings, and tried and convicted him for heinous crimes and later executed him.

Mr. President, this approach has been the subject of extended hearings. Secretary of State Shultz has testified that under appropriate circumstances, it was his view that it would be appropriate for the United States to take terrorists into custody and bring them back to the United States for trial. Attorney General Meese has testified to a similar effect. Legal counsel Abraham Sofair of the Department of State has given similar testimony.

One illustration of the use of this kind of jurisdiction occurred when the hijackers of the *Achille Lauro* in the Egyptian airliner were intercepted by United States planes and forced down on Italian soil. At that time, there was a disagreement between United States and Italian authorities as to who would take custody of the hijackers. Unfortunately, the Italian authorities got custody.

Had that not been so, those hijackers might have been brought back to the United States for trial under provision 2334 of the omnibus crime control law which made it a crime for any person or group to hijack or take U.S. citizens hostages.

This provision I consider to be eminently sound. The matter of taking these terrorists into custody is a delicate matter, one which we will have to approach with care, caution and discretion. But in a world where terrorism is such a major problem and the Untied States has utilized the kind of force which we did in response to Libyan terrorism, this is a much more moderated approach. This is an approach which focuses on individuals who are specifically identified for specific acts, where probable cause has been established, where a warrant of arrest has been issued, where grand jury indictments have been presented in accordance with established principles of law.

It may surprise some to know that at this very moment, there are outstanding indictments out of the U.S. Court for the District of Columbia against the terrorists who hijacked the TWA plane, these terrorists being subject to U.S. jurisdiction because of the 1984 enactment which deals with hostage taking.

Mr. President, I consider this to be a very significant step forward, acquiesced in by my colleagues when this bill received a 29-to-0 vote on February 19. I am joined in sponsorship of this bill by the distinguished Senator from Alabama [Mr. DENTON] and the distinguished Senator from Vermont [Mr. LEAHY].

Mr. DENTON. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Pennsylvania, Mr. SPECTER, which incorporates the substance of S. 1429, the Terrorist Prosecution Act, a bill to amend title 18, United States Code, to authorize prosecution of terrorists and

others who attack U.S. nationals abroad, a bill which passed the Senate on February 19, 1986, by a vote of 92 to 0.

Mr. President, in reviewing the subject of international terrorism, the Judiciary Subcommittee on Security and Terrorism, which I chair, collected sufficient evidence, through hearings, to conclude that there is more to terrorism than just a series of unrelated violent events perpetrated by several unrelated groups.

There is, for example, a clear pattern of Soviet-supported and equipped insurgencies seeking to destabilize, by revolution, whole regions such as Southern Africa, to politicize established religion, such as in Nicaragua and the Middle East, and to export violence against the democratic governments of neighboring states.

The trends are clear. Cooperation among terrorist groups is increasing. In some instances drug money finances the violence. The lethality of the action is becoming greater as more powerful and more sophisticated weapons are employed. There is increasing disregard for the innocent. More diplomats and world leaders are targets. More innocent civilians are made into pawns. United States interests are the No. 1 target.

The pattern that emerges from studying the testimony obtained in more than 60 hearings before the Subcommittee on Security and Terrorism, and more recently in joint hearings with the Judiciary Committee and the Foreign Relations Committee, is that terrorism is the most widely practiced form of modern warfare. It is both a major force and a major trend in foreign affairs.

How successful have we been in dealing with terrorist warfare against our commerce, soldiers, diplomats, facilities, leaders, and private citizens? Not very. We in Congress sometimes adopt self-defeating, even contradictory, measures that often put us at odds with our friends and allies. Most people are outraged at the violence of terrorism as depicted by the daily news, but that rage is short lived.

We have come to a point that requires that we establish both a foreign and domestic policy for dealing with the obvious threat.

U.S. policy on terrorism is fragmented and only partially developed. I believe that it is essential that we determine the degree of the threat to our interests, set our goals and objectives, and then develop a policy and commitments. From there, we must explain our policy so that we can build a consensus that will enable us to persevere and to succeed over the long haul.

Terrorism must be dealt with on many fronts and a military response alone will not suffice. First, we must have laws that are sufficient to meet the threat. We must have a mechanism capable of enforcing these laws. We must pursue diplomatic initiatives and our allies must stand firm with us on this issue. We must in the end be prepared to employ a full range of sanctions: legal, diplomatic, economic, and military.

This amendment, which incorporates the substance of S. 1429, will allow for prosecution in the United States of individuals who commit terrorist murders against U.S. nationals abroad. I believe that S. 1429, with the amendments suggested by Senator LEAHY and myself, represents a step forward in our ongoing fight against terrorism.

I urge my colleagues to support the amendment.

THE TERRORIST PROSECUTION ACT OF 1985

Mr. LEAHY. Mr. President, I am very pleased to be an original cosponsor of this important amendment. I want to commend Senator SPECTER for his initiative, and Senator DENTON, chairman of the Subcommittee on Security and Terrorism of which I am the ranking member, who worked closely with me on the final draft of this legislation which passed the Senate 92 to 0 on February 19, 1986.

The recent wave of terrorist attacks against Americans overseas has given new urgency to the debate over the proper U.S. response to international terrorism.

The United States needs a comprehensive counterterrorism policy. The cornerstone of that policy must be high-level, sustained diplomatic efforts which address the underlying causes of terrorism.

Part of that policy must be to improve our intelligence, so the discriminate use of force against terrorists who have committed or are about to commit violent acts becomes feasible and legitimate.

And, as this amendment demonstrates, our policy must include laws which provide for the criminal prosecution in the United States of terrorists over whom we can obtain jurisdiction through extradition and other means.

Remarkably, under current law, the murder of U.S. citizens outside our borders, other than of certain Government officials and diplomats, is not a crime.

The Terrorist Prosecution Act will close this serious gap in our arsenal against terrorists, by providing for long jail sentences for individuals who commit or conspire to commit terrorist assaults, murders or kidnapings against Americans abroad.

I am proud to have worked with Chairman DENTON and Senator SPECTER on this amendment which received the strong support of the State and Justice Departments and all members of the Judiciary Committee.

Terrorism will continue to plague us into the future. There are no simple solutions, but we should have every weapon at our disposal. The Terrorism Prosecution Act passed the Senate unanimously earlier this year, and I am confident that it will receive the same overwhelming support today.

Mr. SPECTER. Mr. President, I yield to the distinguished chairman of the Committee on Foreign Relations for his comments.

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Mr. LUGAR. I thank the Senator.

Mr. President, the amendment offered by the distinguished Senator from Pennsylvania, as he has pointed out, came before this body in the form of legislation and received a 92 to 0 vote. That affirmation, I think, remains equally as strong presently, perhaps stronger, as we have come to realize the wisdom of the reasoning of the Senator from Pennsylvania and the piece of legislation that he introduced. It is certainly our pleasure to accept the amendment on our side and commend the Senator.

Mr. PELL. Mr. President, I would like to address the further question if I could to the Senator from Pennsylvania, and that is my recollection is several years ago there was a Chilean national in our country, Letelier, who was killed, assassinated by another Chilean terrorist on our own territory. As I understand this provision, it would mean that if the Chileans had the same law the assassin of Letelier could be tried under Chilean law just as we were able to try him under our law, if my recollection is correct. Is that correct?

Mr. SPECTER. I believe that if Chile has a law applicable within its own territorial jurisdiction, as a matter of international precedents they could assert jurisdiction over the Chilean who committed an offense in the United States against another Chilean, if they could gain custody of that individual, take him to Chile and prosecute him in Chile, entirely consistent with the principles of international law.

Mr. PELL. Following up the thought of taking custody, does that mean they would have to legally take custody, I mean extradite or would it be a question of kidnaping him like the fellow they took to Israel?

Mr. SPECTER. When you ask the question whether they have to legally take custody, that is like the rabbit in the hat. It is legal if the court says it is legal, and the courts have said it is legal regardless of how they gain physical possession of the individual. And that has a very solid legal precedent on moral and philosophical jurisprudential grounds because that individual is then afforded all the procedural protection as Kerr was in the State of Illinois, the right to confront his accusers, under the U.S. law a right to trial by jury, due process of law in the fullest sense of the word.

Now, I do not know what the law of Chile is, but Chile as a nation has the right to establish its own judicial system as it sees fit. The issue of how the defendant gets before the court in the United States is one which the Supreme Court has said is not germane

or not determinative and once he is tried and convicted, the individual cannot complain about how he got before the court. But as a matter of basic justice, if we can put our hands on the hijackers of the *Achille Lauro*, who went to Italy and were let go and it was later decided they should have been prosecuted, if we could find any of these terrorists around the world where we are not constrained as in the circumstances of the Libyan raid to use the kind of force we did, how much wiser it would be to have a more moderate approach to find that specific individual.

When I was district attorney in Philadelphia—and a good many of these ideas come from the experience I had as the district attorney of a city and county—we frequently had people who barricaded themselves within buildings and we had to use force to take them into custody. Was it abduction? Was it forceful? Was it pretty tough? You bet it was. But a lot less tough than a bombing raid. And once you get that person into custody, you try him. You have evidence and you have witnesses and he gets plenty of justice through due process of law.

Mr. EAGLETON. Will the Senator yield for a question on the same point that Senator PELL raised?

Mr. SPECTER. I will.

Mr. EAGLETON. Does the Senator mind if I propounded a question to the Senator from Pennsylvania?

Mr. PELL. I do not.

Mr. EAGLETON. I heard the Senator's answer to Senator PELL but I do not know that that is directly responsive. I think what Senator PELL has in mind and what I now have in mind is if we have, under Kerr v. Illinois, the right to go into any country in the world and kidnap an individual there who has been duly indicted in an American court and to put our mitts on him by whatever means we decide to do it, bounty hunters, U.S. marshals, with or without the cloak of the law, whoever it may be—that is what Kerr v. Illinois seems to say and that is how we got into Peru—then other countries can get into this same act and under a same kind of theory can come over here and do a little kidnaping of individuals to whisk them back to Chile.

Paraguay seems to like this a little bit. Iran might like this kind of business extraordinarily. Iraq would do a very good job at it. Syria would be no slouch at it. So my question is when you are devising a strong-arm law that gives global strong-arm powers to put the snatch on people, do not others then have the right to structure their laws if they so desire to play the same strong-arm game and to play it on the U.S. ball field?

Mr. SPECTER. I think the distinguished Senator from Missouri is raising a real issue, a real problem, a real concern. But I would say that that is a risk which is worth taking. At the present time, the strong-arm tactics are all on the side of the terrorists. They are not coming to the United States and taking U.S. citizens into custody, but they are taking Mr. Klinghoffer into custody on the *Achille Lauro* and they are brutally murdering him or they are finding U.S. citizens in the Roman airport and they are brutally murdering them there.

It is not determinative whether a U.S. citizen may be in the United States, in Pennsylvania or Missouri, or may be traveling abroad and is victimized by a terrorist there. We have to take a stand. Now, we have a pretty good defense in the United States if people come here and try to kidnap our citizens but it is not perfect. Within a few feet from where we are standing a bomb went off on November 7, 1983. It was a Monday night. It blew a big hole in the Republican cloakroom windows at that time. So we are subject to problems in this country. But it is similar, I say to the Senator from Missouri, to problems which he and I faced as prosecuting attorneys. I am sure the Senator had the experience many times of victims of crimes who did not want to prosecute because they were afraid that the defendants on bail would seek retribution and their families would be victimized. So that frequently when you seek to enforce the law and take tough actions against criminals, you face the possibility of reprisal.

But what I think we have to do is make a decision about what is appropriate treatment and what risks we are willing to take. I believe that if we could lay our hands on the terrorists who murdered Mr. Klinghoffer or if we could lay our hands on the terrorists who hijacked the TWA plane, we ought to take the chance.

Mr. EAGLETON. A brief rejoinder. I expect my colleague from Rhode Island would permit me to interrupt. I know we are all caught up in this business of terrorism, as we should be—horrible, dirty, filthy, atrocious business. Kerr versus Illinois did not relate to terrorism. It is a 19th century Supreme Court case; is it not?

Mr. SPECTER. That is correct.

Mr. EAGLETON. The person who fled, the fleeing fellow was not a terrorist? What was he?

Mr. SPECTER. Charged with fraud.

Mr. EAGLETON. Fraud. That could be a bum check. Anything on up.

□ 1600

So, if we are going to enunciate this doctrine as an American doctrine, we should be on notice—the people of Philadelphia should be on notice—that other nations could come in and send body snatchers into Philadelphia, into St. Louis, into Providence, RI, and grab people indicted for fraud; writing a bum check over $50—say, $51 in Missouri. It may have been upped to $100, so let us make it a $101 check. Say there is a $101 bum check from Iran on the bank of the shah; a $101 bum check on the Bank of Iraq; a $101 bum check on the Bank of Syria. They are indicted over there. They can come in and grab people out of restaurants, hotels, homes, whatever, in Philadelphia, whisk them back to those countries; and under the doctrine of the Senator from Pennsylvania, that would be legally permissible. That worries me.

Mr. SPECTER. The hypotheticals suggested by the distinguished Senator from Missouri, I would say, are not realistic, but the thrust of what he raises as his concern is, I think; and that is that if you are going to get tough with terrorists, you may be subject to reprisals. But I think that is something we have to be willing to risk, if we are going to be tough with terrorists.

I do not think they are going to come into cities in the United States and kidnap American citizens for bad checks.

Let me add to the distinguished Senator from Missouri the fact that the Kerr decision, an 1886 decision, does not stand by itself. It has been repeatedly upheld, as a matter of legal principle, by the courts in the United States; in a decision in 1950 written by Justice Hugo Black, one of the most noted civil libertarians in the history of the Supreme Court of the United States; and upheld in later decisions by the court of appeals. This approach articulated in the Kerr case is sound.

There is nothing to stop somebody from kidnaping an American citizen in the United States today and taking him to a foreign country, for fraud. That is something which could happen at any time. But I do grant that when we take strong action against terrorists, however we do it, we are going to be subject to risk of retaliation.

It is very much like the victim who testifies in a rape case, the victim who testifies in an assault case. If you want to bring those defendants to justice and be strong and tough it, they may seek to retaliate. But if we are going to have an orderly society, with law and order and justice, that is a risk we have to take.

Mr. PELL. Mr. President, I think there has been much benefit from this exchange, and we are being educated—I am, in any case. I know of no objection to this amendment on this side of the aisle, and I suggest that we vote for it.

The PRESIDING OFFICER (Mr. EVANS.) Is there further discussion? If not, the question is on agreeing to the amendment.

The amendment (No. 2188) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. and Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. EAGLETON. Mr. President, may I make an inquiry of the Chair?

Is there still an informal rule that used to be in existence that there be alternating between Republicans and Democrats? I have been sitting here for a good part of an hour. There used to be, in the old days of comity, an unwritten rule that it went from one side of the aisle to the other. Has that been done away with?

The PRESIDING OFFICER. There is no such rule. The rule of the Senate is that the first Senator seeking recognition and recognized by the Chair is the one to be recognized. Of course, a tie may occur. Unfortunately, this Senator just assumed the Chair, and this is my first recognition.

Mr. HELMS. Mr. President, I will be delighted to defer to the Senator from Missouri. He and I have been waiting. I have three amendments which I understand will be accepted.

Mr. President, I defer to the Senator from Missouri, with the understanding that I will follow him.

Mr. EAGLETON. If the amendments will be accepted and can be handled quickly, I will wait.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had intended to offer an amendment at this time to transfer $10 million from funds available to the United Nations Department of Public Information to fund a coordinated, carefully targeted Interagency Program of Counterterrorism Research and Development.

The Technical Support Group of the Interdepartmental Group on Terrorism, formed at the recommendation of the Inman Commission, has identified major deficiencies in development funding for new techniques to identify and counter potential terrorist attacks. Accordingly, the administration requested an urgent appropriation of $10 million to fund priority programs.

Because of the wide diversity of terrorist threats, as well as the traditional differences in the missions of various Federal agencies, there are significant gaps in technological programs which no individual agency now has responsibility for addressing.

For example, the Federal Aviation Administration is currently developing an explosive detection device for airport use to combat contemporary bombs that defy traditional airport x ray machines, such as that likely used in the recent TWA flight 840 tragedy in which four Americans lost their lives. With some modification, this same technology could be adapted for use in Federal buildings such as the White House, Capitol, State Department, embassies, et cetera. Yet, FAA's responsibility is airport security, and no agency is charged with taking a broader perspective on interagency needs, so that this potentially lifesaving explosive detection device is not being developed for other uses.

I recently wrote to Secretary of State George Schultz urging him to evaluate this technology and its potential application to embassy security because it is my understanding this kind of advanced technology is not currently being pursued at the State Department, or any other agency outside FAA.

Funding of the counterterrorism research and development plan proposed in this amendment will provide for a focused and coordinated interagency effort to fill these kinds of gaps in combating terrorism.

The funds will be utilized by various agencies according to agreed interagency research priorities for advanced technology applicable to countering terrorism and I understand that $400,000 of the $10 million would go to fund development of a technical plan to meet interagency needs for explosive detection using demonstrated thermal neutron activation technology.

It is extremely important that we develop the ability to anticipate potential terrorist tactics and develop suitable countermeasures before serious incidents occur. The scientific and technical know-how exists, but we lack a funded interagency structure to coordinate these activities and assure that all major technological areas are being addressed. Without this central coordination, there is no certainty that technological evolutions in the terrorist threat will be adequately addressed, or that research areas currently being neglected will be identified and pursued.

I would have proposed that the offset for these urgently needed funds come from the United Nations Department of Public Information. A recent General Accounting Office report that I requested indicates that about half of the media pieces put out by the United Nations Department of Public Information [UNDPI] on topics designated by the Department of State to be important to U.S. interests took positions contrary to U.S. policies and contained biases against the United States. Only one of the items produced during 1983-85 which GAO studied supported our interersts. On May 2, 1986, I wrote Secretary Schultz urging him to withhold U.S. funding for UNDPI until the materials it produces and distributes are less biased against America.

Clearly, our national interests are better served by a coordinated counterterrorism R&D effort than by subsidizing anti-American publications.

International terrorist violence has been largely limited to Europe and the Middle East, but the threat of terrorism within the United States grows more serious each day.

Members of this body in 1984 will not soon forget the explosion that ripped through the wall of the Senate Republican Cloakroom in the Capitol late one evening. The Senate had been scheduled to meet late that night, but had unexpectedly adjourned early. As a result, no one was in the Cloakroom at the time of the explosion, but the near-miss provided dramatic evidence of the reality of the threat even in the U.S. Capitol and the need for more effective security.

I ask unanimous consent that copies of my letters to Secretary Shultz on the explosive detection technology (May 8, 1986) and on the UNDPI—May 2, 1986—be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 2, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR GEORGE: I am writing to urge the withholding of United States funding for the United Nations Department of Public Information (DPI) until the materials it produces and distributes more significantly represents American interests.

A recent General Accounting Office Report that I requested, entitled "United Nations: Analysis of Selected Media Products Shows Half Oppose Key U.S. Interests," has provided important evidence that our positions are being ignored in DPI's literature and productions. DPI is the principal U.N. body engaged in public information activities and is responsible for producing and distributing a variety of media around the world.

The Report indicates that about half of the DPI materials analyzed on areas identified by the Department of State as being important to U.S. interests opposed our interests because they took political positions contrary to U.S. policies and/or contained elements of bias against the United States. The Report also concludes that only one of the items the study used supported U.S. interests.

Given that the United States' contribution to DPI is roughly 25% of its budget, it is critical that our national interests be served by this investment. The GAO study has clearly shown that our interests are not being furthered by DPI and I strongly urge that all U.S. funding for this program be withheld until DPI produces unbiased and fair materials that do not undercut our vital interests.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, May 8, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR GEORGE: I am concerned that advanced technologies capable of comprehensive explosive detection are not being included in the State Department's Embassy Security program. I strongly urge you to investigate Thermal Neutron Activation (TNA) explosive detectors and incorporate them into this program.

As the Inman Commission concluded, security at many of our embassies overseas is very much in doubt, especially in high-risk areas of the Middle East, Europe and Africa.

While the Federal Aviation Administration has made important advances in this field, the State Department currently has no in-house development program underway to study TNA technology for inclusion in a comprehensive system of embassy security.

In January of this year, I was able to view a TNA detector which has been demonstrated to be effective in detecting the presence of all known types of explosives in luggage at four major U.S airports. I understand from the Westinghouse Corporation, one of the companies presently engaged in TNA research, that this technology can be modified for embassy or car bomb detection and will serve as an effective deterrent against today's sophisticated terrorists.

I also understand from Westinghouse that the Physical Security Division of the State Department is aware of the capabilities of TNA in identifying explosive compounds, but there has been no effort to utilize this technology.

I strongly urge you to evaluate TNA and implement this potentially life-saving system into the State Department's plan to enhance embassy security.

My best.

Sincerely,

ARLEN SPECTER.

Mr. RUDMAN. Mr. President, I appreciate knowing of the Senator's interest in this issue. I will certainly keep his views in mind when we are in conference with the House of Representatives. As the committee stated in its report accompanying the urgent supplemental appropriations bill, we were concerned that much of this work is already being done in other parts of the Government. However, the Senator has made a good point about the need for interagency cooperation in the area of counterterrorism research and development. While I am not in a position to agree to a figure at this time, I fully expect funding will be made available for at least a portion of this request in 1986. At the same time, I understand his interest in pursuing research and development of explosive detection using demonstrated thermal neutron activation technology and I expect the interagency task force will give every consideration to a research proposal in this area.

Mr. SPECTER. I thank the Senator from New Hampshire for indicating his support for funding of a program for interagency counterterrorism research and development and his expectation that at least a portion of the $10 million can be included in the urgent supplemental for fiscal year 1986. Moreover, I appreciate his positive statement about pursuit of demonstrated thermal neutron activation technology for interagency explosive detection needs. In light of these remarks, I am withholding this amendment.

Mr. President, this matter has been discussed between the staffs, and my only request of the distinguished chairman of the Foreign Relations Committee would be to consider this matter in conference, with the request of this Senator that the Senator might accede to the higher figure. It is important for this research and development. But I shall not press the amendment at this time. I seek only to ask for that consideration by the distinguished chairman.

Mr. LUGAR. Mr. President, I thank the Senator for his consideration. We are sensitive to the argument being made and will give it every consideration.

Mr. SPECTER. I thank the Senator from North Carolina for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EXON. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I yield.

Mr. EXON. Mr. President, I do not want to interrupt the flow of Senate activity.

This Senator was advised that at 4 o'clock this afternoon, no later than 4, we would be going about the business of setting aside the bill before us so that the Senate would have an opportunity to work its will on the urgent supplemental appropriation.

I have talked to the majority leader and the chairman of the Appropriations Committee about this. The supplement appropriations is a tremendously important bill, and in my opinion we must get it passed this evening sometime.

Important as the measure is before us, I am wondering if there is any information that could be imparted to this Senator as to when we will take up the urgent supplemental appropriation. Does the Chair have any knowledge of that?

The PRESIDING OFFICER. There is no agreement to take up the urgent supplemental appropriation at 4 o'clock. The Chair has no knowledge as to precisely when that will be taken up.

Mr. LUGAR. Mr. President, if the Senator will yield, I should like to assist the Chair by saying that we have had great cooperation from the majority leader and the minority leader, and we are not going to abuse that.

It appears that there are three amendments by the Senator from North Carolina which will be agreed to. The minority leader will have amendments, and I suspect that we will accommodate those rapidly. To my knowledge, that will end the amending process, and we can move to final passage. I am pleasantly surprised by events at this point.

Mr. EXON. I thank the Senator.

AMENDMENT NO. 2189

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2189.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) ESTABLISHMENT UNDER INSPECTOR GENERAL ACT.—(1) Section 2(1) of the Inspector General Act of 1978 is amended by inserting "the United States Information Agency," immediately before "the Veterans' Administration".

(2) Section 11 of such act is amended—

(A) in paragraph (1) by inserting "or the Director of the United States Information Agency" immediately before "as the case may be;" and

(B) in paragraph (2) by inserting "the United States Information Agency" immediately before "or the Veterans' Administration".

(b) Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $5 million shall be available only for the operation of the office of the Inspector General established by subsection (a) of this section.

Mr. HELMS. Mr. President, I will be brief. All three amendments that I shall offer have been cleared on both sides, I understand.

Last year, the Senate approved a measure creating an independent inspector general at the U.S. Information Agency under, of course, the Inspector General Act of 1978.

The USIA has been plagued with numerous difficulties, which I do not think need repetition here today. These difficulties have hampered American efforts to sell American foreign policy overseas. Some have argued that the agency has become excessively politicized, but I would like to reiterate the Senate decision of last year by offering this amendment, to try once again to solve a problem that the Senate already identified at USIA.

The amendment earmarks a small amount of funds for fiscal year 1987 for startup costs for the new office. It is quite small in comparison with the total agency's budget.

I emphasize that it is earmarking and not an additional expense. But it will provide a large return if it succeeds in identifying management problem at USIA. After all USIA and State are the only major agencies which do not have an independent IG. State has a mandate under law, but USIA does not even have a mandate. This amendment will correct this oversight.

Mr. LUGAR. Mr. President, the amendment does indeed affirm Senate policy. On our side, we are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LUGAR. I understand that the other side of the aisle is prepared to accept the amendment, so there is no further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2189) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1610

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

AMENDMENT NO. 2190, AS MODIFIED

(Purpose: To provide for an independent Inspector General for the Department of State)

Mr. HELMS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2190.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. INDEPENDENT INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated for the Department of State for the fiscal years 1986 and 1987, 2,000,000 for the fiscal year 1986 and 12,000,000 for the fiscal year 1987 shall be available only for the operations and activities of the Inspector General for the Department of State, appointed by the President under section 3 of the Inspector General Act of 1978, to conduct those activities specified in section 209(g) of the Foreign Service Act of 1980, as such section was in effect before the date of enactment of this Act.

(b) ABOLITION OF PROGRAM INSPECTOR GENERAL.—(1) Section 209 of the Foreign Service Act of 1980 and section 150(b) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, are repealed.

(2) Not later than 30 days after the date of enactment of this Act, the Secretary of State shall reassign the personnel and dispose of the property, records, and unexpended balances of appropriations which were used by or available for use by the office of the Program Inspector General before the date of enactment of this Act.

(c) PROHIBITION ON USE OF FOREIGN SERVICE MEMBERS.—(1) No member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980, shall be appointed Inspector General for the Department of State.

(2) No career member of the Foreign Service may participate in the recruitment, selection, or recommendation of any individual to be appointed by the President as Inspector General for the Department of State.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Independent Inspector General for the Department of State.

Mr. HELMS. Mr. President, Congress mandated an independent—and I underscore the word "independent"—inspector general at the State Department last year despite objections from the Career Foreign Service who believe that nothing should ever be publicly known about certain activities.

Now, the fact is—and I regret to say it—that the State Department has dragged its feet for the past year and has declined to carry out the law. They are trying very hard to cripple the independent inspector general office which they have yet to establish after a year by limiting it to audits, and that certainly was not the congressional intent.

The GAO has reported time and time again showing the urgent need for an independent inspector general. I do not believe we should allow the State Department to go forward with this massive budget expansion for embassy security without protecting the taxpayer by getting in place the inspector general office that we mandated last year.

Mr. LUGAR. Mr. President, I wish to pose a question to the distinguished Senator from North Carolina.

It is my understanding that the amendment now has deleted three words in the language of lines 14, 15, and 16, and all of line 17.

Mr. HELMS. I would be ready to accept that, I say to my friend.

Mr. LUGAR. Mr. President, we are prepared to accept the amendment.

Mr. PELL. Mr. President, on this side, too, we accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS. Mr. President, I have agreed with the managers of the bill to remove a legislative prohibition from the amendment against the assignment of foreign service personnel to the IG office at the State Department. I have done so because it is in fact redundant. The independent IG at the State Department must be, under the IG Act of 1978, in complete control of the personnel in his office including their hiring, continued employment, and promotion. If those who are the subject to the audit and evaluation activities of the inspector general are in any way in charge of the hiring, firing, promotion, or any other supervisory authority over the personnel in the inspector general's office, it undermines the intention of Congress and the independence of the office under the 1978 act.

Nothing would prevent a member of the Foreign Service from serving in the office of the inspector general should that member be hired by the IG as an independent decision. That would require the IG to offer permanent employment in his office to that member of the Service.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

Without objection, the amendment (No. 2190) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2191, AS MODIFIED

(Purpose: To prohibit the use of funds for facilities in Israel, Jerusalem, or the West Bank, and for other purposes)

Mr. HELMS. Mr. President, I send a third amendment to the desk and ask that it be stated. This amendment is cosponsored by the distinguished Senator from Nevada [Mr. HECHT], the distinguished Senator from Florida [Mrs. HAWKINS], and the distinguished Senator from Minnesota [Mr. BOSCHWITZ].

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. HECHT, Mrs. HAWKINS, and Mr. BOSCHWITZ, proposed an amendment numbered 2191.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank, except that $83,423,000 shall be available for site acquisition, development, or construction in Israel of a chancery and residence within five miles of the Israeli Knesset building and within the boundaries of Israel as they existed before June 1, 1967. *"Provided*, That nothing in this section shall require the construction of any facility if the Secretary of State determines and reports to the Congress that the physical security of personnel to be employed at that facility cannot be adequately guaranteed."

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.".

Mr. HELMS. Mr. President, a brief background on this amendment and then we can put it to a vote.

As I stated earlier, I believe it has been agreed to, including the modification, by both sides.

The background is that the Diplomatic Security and Anti-Terrorism Act of 1986, which is H.R. 4151, includes a line item authorization of $857,800,000 for "acquisition and maintenance of buildings abroad" at 75 posts.

The State Department presentation to the Foreign Relations Committee proposes to spend $83,423,000 for the acquisition, development, and construction of a new U.S. Embassy complex in Tel Aviv and $41,083,000 for a new West Bank consulate in Jerusalem. The West Bank consulate is an independent representational office

which, of course, reports directly to the Secretary of State and not to the U.S. Ambassador to Israel.

Mr. President, the construction of a new Embassy in Tel Aviv is an affirmative act which assumes that there will never be an outcome to the Middle East peace negotiations which acknowledges Jerusalem as the capital of Israel. Yet for historic, political, and religious reasons, it is inconceivable, at least for this Senator, that Israel would ever remove the key functions of its Government from Jerusalem. Nevertheless, once $142.5 million have been spent on new U.S. diplomatic buildings to set the status quo in concrete, it is no longer credible that the United States might one day recognize Jerusalem as the Israeli capital.

By building these complexes, we are saying to Israel that we can conceive of no outcome to the peace negotiations which would allow us to have our Embassy in Jerusalem. I do not think we want to say this, Mr. President. By constructing the new buildings, the United States will change the status quo, and put the United States firmly on the side of those who do not recognize the right of Israel to exist, and who will not accept U.N. Resolution 242.

But unless Congress acts now, the State Department will proceed with site acquisition in Tel Aviv in October. H.R. 4152 gives the State Department the authority to proceed.

Previously, representatives of the State Department have always held that any change in the status quo would prejudge the outcome of negotiations. Thus the consulate in what was formerly East Jerusalem under Jordanian occupation was to be maintained as a separate entity to demonstrate that the United States was neutral as to the outcome of peace negotiations. Similarly, it was held that to move the Embassy to Jerusalem would be recognition of Israel's proclamation of Jerusalem as the capital of Israel, and would prejudge the future status of Jerusalem. But by acquiring new sites for the West Bank consulate in Jerusalem and the Embassy in Tel Aviv, the State Department upsets the fiction that the present locations are contingent upon the outcome of peace negotiations. By changing contingency to permanency, the whole character of the status quo is changed.

My amendment is carefully drawn to overcome previous objections. It provides the following:

First, it prohibits construction of a new West Bank consulate, since such construction would change the status quo, and would be redundant when a new Embassy is built in Jerusalem.

Second, it prohibits construction of a new Embassy in Tel Aviv, for the same reasons.

Third, it makes available $83,423,000 for the construction of a new Embassy complex, provided the site meets the following criteria: first, it is 5 miles from the Knesset building, and second, it is within the boundaries of Israel as they existed before June 1, 1967.

By adopting this formula, the amendment avoids mandating that the Embassy actually be in Jerusalem, and it avoids situating the Embassy in any site that would recognize the territorial changes that resulted from the 1967 war. The Knesset building itself is in a new part of the city, and well within the pre-1967 line. Thus only those who deny the right of Israel to exist could object to the United States action.

In the past, Mr. President, it was argued that the congressional proposals on moving the Embassy to Tel Aviv would trespass upon the constitutional prerogative of the President to conduct foreign policy and that the move itself would adversely affect the security of our other Embassies in the Middle East. Neither of these objections pertain to this amendment now pending.

The administration itself has raised the issue and sent it to Congress for action.

Moreover, my amendment is not mandatory. It merely restricts construction in Israel to the appropriate site if the administration chooses to act.

Finally, the security objection itself cannot be sustained in view of the fact that this bill itself is intended to raise security at all of our Embassies at a level sufficient to withstand terrorism.

Mr. President, I ask unanimous consent that the State Department program submission for Jerusalem and Tel Aviv be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD (REGULAR)

1986 SECURITY SUPPLEMENTAL ESTIMATES—1987 CAPITAL PROJECT SUMMARY/OUTYEAR COSTS

Project: New Chancery Compound.

Location: Israel, Tel Aviv.

Funds: Total, $83,423,000.

Post Profile: Chancery/Annex Occupancy.

	Americans		Foreign nationals		Total	
	Present	Projected	Present	Projected	Present	Projected
State	85	89	120	126	205	215
Other USG	25	28	52	56	77	84
Total USG	110	117	172	182	282	299

PROJECT AREAS

	Gross square feet	Net usable
Existing facilities	81,000	58,000
Proposed facilities	120,000	78,000
Difference	39,000	20,000

Narrative Description: The Embassy in Tel Aviv is faced with continued substantial security threats. The present Chancery is located in the center of the congested commercial district of the city with no security set-back from the surrounding streets. The building is now extremely vulnerable to terrorist or mob violence.

The Chancery does not have adequate space for requirements of all the U.S. agencies now in Israel. To adequately consolidate all U.S. Government offices into one Chancery compound to meet space program demands and security and structural designs objectives, it will be necessary to acquire an alternate site in Tel Aviv of 10-acres for construction of 120,000 square foot office building compound. The new building will include space for additional staff, Marine Guard Residence (11,000 sq. ft.) and the personnel currently housed in leased properties.

[In thousands of dollars]

Activity	Date	Funds provided to date (fiscal year 1986)	Estimated obligations					Total funds required
			fiscal year 1987	fiscal year 1988	fiscal year 1989	fiscal year 1990	fiscal year 1991	
Projects								
Site acquisition	October 1986		15,218					15,218
Development			1,753					1,753
Construction				37,895				37,895
Special construction				8,073				8,073
1 time costs								
Supervision				5,030	5,200	2,347		12,577
Comms and SY equipment					4,272			4,272
Furniture and furnishings					3,635			3,635
Total project costs			16,971	50,998	13,107	2,347		83,423

Project. Consulate Office Building.
Location: Jerusalem.
Funds: Total, $41,083,000.
Post Profile: Chancery/Annex Occupancy.

	Americans		Foreign nationals		Total	
	Present	Projected	Present	Projected	Present	Projected
State	19	19	40	40	59	59
Other USG	8	7	4	5	12	12
Total USG	27	26	44	45	71	71

PROJECT AREA

	Gross square feet	Net usable
Existing facilities	20,000	13,000
Proposed facilities	33,000	22,000
Difference	13,000	9,000

Narrative Description: The Consulate General in Jerusalem is faced with continued substantial security threats. The Consulate General is in two compounds, West Jerusalem and East Jerusalem. None of the Consulate buildings meets current security standards primarily due to the total lack of setback from streets.

To consolidate all Government offices into one compound to meet security and structural design objectives, it will be necessary to acquire a new site of 5 acres and construction of a 33,500 square foot building. The projected space requirements includes a Marine Guard Residence and USIA offices presently located in leased properties.

[In thousands of dollars]

Activity	Date	Funds provided to date (fiscal year 1986)	Est-mated obligations	Fiscal year 1987	1988	1989	199(	Total funds required
Projects								
Site acquisition			$10,000					10,000
Development			920					920
Construction				17,839				17,839
Special construction				2,104				2,104
One time costs:								
Supervision				2,125	2,130	1,061		5,316
Comm. and SY equipment					3,849			3,849
Furniture and furnishings					1,055			1,055
Total project costs			10,920	22,068	7,034	1,061		41,083

Mr. LUGAR. Mr. President, I would like to address a question to the distinguished Senator from North Carolina. In the amendment as he presented it to us and I think indicated it was modified were the words "providing nothing in this section shall require the construction of any facility unless the Secretary of State determines and reports to the Congress physical security of personnel employed at the facility cannot be adequately guaranteed."

Mr. HELMS. I say to the Senator he is absolutely correct, I would accept that modification.

Mr. LUGAR. I thank the Senator, and we are prepared to accept the amendment.

Mr. PELL. Mr. President, this side of the aisle has no objection. We are glad to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HELMS. Mr. President, in interest of time again, just for the record, I ask unanimous consent to be able to extend my remarks in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this modification makes no change in my amendment. My amendment does not require the construction of any new facility anywhere. It merely prohibits the construction of an embassy in Tel Aviv. It makes funds available to construct an embassy near the Knesset building if the State Department wishes to.

I presume, Mr. President, that the State Department would not build any embassy or consulate in which our diplomats would be unsafe. I doubt that it is the intention of the distinguished chairman to suggest that a new embassy near the Knesset, built with modern antiterrorist construction, would be less secure than our old Embassy in Tel Aviv, situated as it is in an ordinary office building on a busy street.

It should be noted that the State Department did contemplate spending $41 million on a new West Bank consulate complex in Jerusalem. If a 41-million-dollar building in Jerusalem would be safe, then certainly an 83-million-dollar building would be safe. It would be very extraordinary indeed if the Secretary of State gratuitously declared that it would be unsafe to build a facility in Jerusalem after having submitted plans to build a smaller facility there. It would be very cynical indeed to try to pretend that we could not protect our diplomats in Jerusalem.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 2191) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, let me extend my gratitude to the managers of the bill for their excellent cooperation.

Mr. LUGAR. I thank the Senator.

Mr. HELMS. I thank them very much.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. EAGLETON. Mr. President, I have been in the Senate now for close to 18 years and today has been one of the strangest of those 18 years.

Whether anyone knows it or not, we are in the midst of a filibuster, Mr. President.

A filibuster is where a Senator or group of Senators get up and speak at an unusual length on a given issue, talking on and on and on, and those who think they have talked too long file a thing called cloture to cut off that inordinate extended debate. Then at a time certain there is a vote on cloture and if 60 Senators vote to cut off the debate, that ends it, more or less, subject to the ad nauseam Allen-type amendments.

The purpose of my remarks at this time, Mr. President, are not to talk about the Senate rule, not to talk about the filibuster, but just to alert the country that we are in one, and it is most unusual that those who would normally be considered to be the filibusterers, those who are against the elevation from obscurity of Daniel Manion of South Bend, IN, to the court that is right below the Supreme Court of the United States, the 7th Circuit Court of Appeals, those who are considered the filibusterers do not have any time to speak with respect to Manion. We are going to vote tomorrow to cut off debate without any debate having occurred.

There is a reason for it, Mr. President. There is a reason for it.

those qualities that a Supreme Court Chief Justice ought to have."

I, for one, said, "I am for him. Send him up, Mr. President, and I will vote yes."

□ 1700

When Judge Scalia came up, they also said he is a man who is extremely conservative. He is a man also of great intellectual energy, of charm, of mental capacity, of integrity, of all of those other things which go to make up a fine judge. My reaction, when I heard of Judge Scalia was, if he appears at the committee hearing as he is talked about in the press, I also am enthusiastically for him, because he will certainly improve or be up to the standards of the Supreme Court when it comes to capacity, intellect, competence, and those other qualities of a judge that generally go with what we expect of the standards of the Supreme Court.

The third judge, Mr. President, is Daniel Manion, and to utter his name in the same breath with Judge Rehnquist and Judge Scalia is almost to make a joke. We are told that we ought to accept this third-quality or fourth-quality lawyer for the second highest court in the land because he is conservative. Because he is conservative, we ought to accept any judge that is sent up to us.

Mr. President, I say that is so much bunk. We in this Senate will not measure up to our own standards of integrity if we do not exercise some independent judgment and require some standards of quality when it comes to second-highest court in the land.

Mr. President, I have read these briefs. Why, in one of these briefs there are six different errors on one page, not simple errors. Some are misspellings. They are generally the mark of a sloppy lawyer, not just a lawyer of medium quality but a sloppy lawyer. They are so bad, Mr. President, that you would have to say to make that many mistakes in any brief turned into any court of record disqualifies that judge for this kind of position.

Now, I do not say that Mr. Manion should be disbarred. I do not say that Mr. Manion should be dishonored. I do not say that Mr. Manion would not be a perfectly competent attorney in a whole range of endeavors, small claims, whatever it is. He would probably do an excellent job. But for the second-highest court in the land, the court of appeals, Mr. President, the fact that he is conservative is not enough. The fact that he might have voted right on right-to-life—and I think I have an unblemished record on right-to-life, but do not tell me Mr. President, that I have to vote for every judge that is sent up here if he happens to agree with me on the right-to-life issue. If that is the standard, why, send up my wife; she is probably stronger on right-to-life than I am, if that is possible.

Mr. President, we ought to have some quality, and we ought to have something better out of the White House than these veiled threats about trying to identify Senators as being part of the liberal claque around here if they do not approve every judge of whatever quality that is sent to us. I think that is offensive to this body, Mr. President, and I think the President of the United States ought to retract his statement and look at his nominee, and if that nominee is as poor in quality as all these law school deans say, as a thousand lawyers out of Chicago say, as commentator after commentator says, then I think the President ought to rethink his criticism of this body and withdraw his name and send us up, if he likes—and I am sure he would—a strong conservative, a strong right-to-life person but someone with a little judicial competence. This man has none.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are within about 5 minutes of completing a very important bill, the Diplomatic Security and Antiterrorism Act of 1986. But now we are hearing speeches on the Manion nomination. I do not object to that. Last night nobody wanted to talk. Tonight I think others do. But I hope that we complete action on the pending bill. I understand we are 5 or 10 minutes away from final passage, there are two amendments by the distinguished minority leader which would be accepted and the bill will end. Then I am proposing we have 2 hours of debate yet this evening on Manion, equally divided, and tomorrow have another 2 hours equally divided and then vote on the Manion nomination at 1 o'clock, at least on cloture. But I think what we see here is a little judicial assassination, not even giving the man the right to have an up-or-down vote. It has been a policy decision apparently, political decision, that we are going to take care of this guy and not going to invoke cloture, and therefore he will never have a chance to have a vote up or down of whether or not he should be confirmed. I believe that is unfortunate. I hope that is not the case. But I sort of sense that it is starting to boil on the other side. I hope that we would treat this nomination as we have many in the past. I can recall after the election in 1980, a candidate by the name of Stephen Breyer, a Carter nonimee, and there was a cloture motion filed. I voted with those who wanted the Breyer nomination voted up or down. It seems to me that is the least we can do for someone who comes before this Chamber.

So, Mr. President, until we work out some agreement, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1710

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2192

(Purpose: To coordinate further the international war on terrorism)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DIXON, proposes an amendment numbered 2192:

On page 129, after line 3, add the following new section:

SEC. 702. COORDINATION OF INTERNATIONAL WAR ON TERRORISM.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight to save terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) POLICY.—It is the sense of the Congress that in order to concert action and increase information sharing in the international war on terrorism, the President should propose to the North Atlantic Treaty Organization (NATO) the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Coordination of international war on terrorism.".

Mr. BYRD. Mr. President, there is no reason for the United States to go it alone in the war on state-sponsored terrorism. The President's decisive action against Libya left residual bitterness in the minds of many Americans when they learned that our allies had refused to support the raid.

This administration has been accused of a unilateral policy of not consulting or including our closest allies until too late in the planning of major actions affecting them, or only after the fact. We need to regularize our discussions on areas of mutual interest. Nowhere is that need greater than in the face of the challenge of global terrorism.

I offer an amendment today that will encourage such cooperation by building upon antiterrorist commit-

ments undertaken by heads of the developed democracies and expressed in the Bonn summit declaration against terrorism, and the recent Tokyo summit statement.

My amendment expresses the sense of the Congress that the President should propose that the North Atlantic Treaty Organization should establish a permanent political committee to deal with the subject of terrorism. NATO has been reluctant to exceed its mandate of cooperation against the Warsaw Pact threat. But the new international terrorism has targeted NATO interests, as well as those of individual member states.

The North Atlantic Assembly has established a working group on terrorism, and the NATO military structure has made strides toward better information sharing. However, a political committee of NATO would provide an important forum for government-to-government cooperation and policy discussions on terrorism. Such a committee could help in building a consensus for joint action, and in weighing options on a case-by-case basis.

Given the rise of state-sponsored terrorism, it is all the more important that like-minded governments share in planning a response.

Mr. LUGAR. Mr. President, the able Democratic leader has made an excellent contribution to this legislation. Our side is prepared to accept the amendment.

Mr. PELL. Mr. President, the Democratic side is delighted to accept the amendment of the Democratic leader and recommends its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2192) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the able chairman and the able ranking member of the committee for their acceptance of the amendment.

□ 1720

Mr. BYRD. Mr. President, I believe it is a good amendment. I thank the Senate for adopting it.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA

Mr. BYRD. Mr. President, I have an amendment to the bill, an amendment on Afghanistan. I would like to discuss that amendment. It will take a little while, not very long. I think the amendment deserves some little bit of time, 30 minutes, 35 minutes, or 40 minutes, at least.

Some of my colleagues want to discuss the Manion nomination. Tomorrow there will be a vote on the cloture motion. That does not give my colleagues a great deal of time in which to discuss that nomination.

I would hope that they could discuss the nomination this afternoon and evening as much as they desire to do so. I would hope that the distinguished majority leader would allow them to do that.

I know that the distinguished majority leader wants to get on with finishing this bill, and I am perfectly agreeable to doing that.

However, I am agreeable to delaying my amendment, because the cloture vote is coming up on us under the rule, and there is no way of delaying that except by unanimous consent.

Those of us on this side who are opposed to the Manion nomination do want some time to discuss it before we have to vote on cloture.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. BIDEN. As I understand it, we have a bill before us to be finished. We have a supplemental to be finished. Yet we have a cloture vote set for tomorrow at 11 o'clock. Is that the minority leader's understanding?

Mr. BYRD. Mr. President, there has been no order entered with respect to setting the cloture vote at a time outside the requirements of the rule. The rule would be that if the distinguished majority leader brings the Senate in at 10 o'clock tomorrow, then the cloture vote would occur a little after 11 o'clock. Whatever hour the distinguished majority leader brings the Senate in would determine the hour when the Senate would vote on cloture, because under the rule there is only 1 hour for debate on that cloture motion.

Mr. BIDEN. Mr. President, will the Senator further yield for another question?

Mr. BYRD. Yes, I yield.

Mr. BIDEN. The Senator from Delaware is under the understanding that the purpose of the cloture vote was to end debate. The assumption is that there was going to be debate before you move to end the debate. I know that we have the bill before us. There is the supplemental, which the majority leader indicates is important, and I agree with him on that, to deal with when the House sends it over, if it is not already here. I am confused as to how we can be accused of wanting to extend the debate, therefore, requiring a cloture motion to cut off the debate before we are allowed to engage in the debate.

The majority leader said last night that he was bringing it on last night. But I was told as I stood up to speak that the majority leader wanted to take us out by 6:30 p.m. I stood on the floor in response to a question. The majority leader said it was the intention to end by 6 or 6:30 p.m. The Senator from Delaware and the Senator from Massachusetts were prepared to go ahead. Instead, I gave an 8-minute statement last night to accommodate the Senate, thinking we had a chance to debate it today.

My question to the Senator from West Virginia is how can there be a motion to cut off debate that has not begun?

Mr. BYRD. Well, the distinguished Senator poses a very appropriate question. If the debate has not begun, it cannot be cut off. The Senator's observation is correct. I must say, of course, that the distinguished majority leader is acting within the rule. He may go to a matter in executive session without any debate on the motion—which he did. He may then immediately offer a cloture motion thereon, which he did, and he can do all that within the rule. Then, on the following day but one—in this situation, the cloture motion having been entered on Tuesday, the Senate will vote on the cloture motion on Thursday, 1 hour after the Senate convenes and following the establishment of a quorum.

So the majority leader is doing what he can do within the rules.

On the other hand, my colleagues who wish to debate the nomination are not being given much of an opportunity to do so. Once the Pastore rule had run its course today, of course, debate did not then have to be germane. An executive nomination can then be debated during legislative session, and that is what my colleagues were undertaking to do.

A quorum was suggested earlier a short time ago. I take it that the Senator from Delaware and the Senator from Massachusetts wanted to discuss the nomination, but the distinguished majority leader would not let the quorum call be called off.

I called the quorum off for the purpose of calling up an amendment to the bill. But I do want to take the opportunity, while I have the floor, to state that I think our colleagues should have had more time today and tomorrow to discuss this nomination.

It would require unanimous consent on tomorrow to extend the cloture vote beyond the time allowed by the rule, and the majority leader has proposed a request which is being checked

Mr. DOLE. It is just a test of wills of whether we are going to pass this bill before Senator BIDEN speaks. We can play that game all evening. I thought he wanted to speak on the nomination. Senator PELL and Senator LUGAR have been on the floor most of the day. I assume they are willing to wait, if necessary. It seems to me it is a little bit too much here to suggest we cannot complete action on the bill, let Senator BIDEN speak, and Senator KENNEDY, whoever, and we will have someone on this side in the absence of Senator THURMOND to come so they can have a little debate. By the time we find that person, maybe they will be ready to talk. But I would rather not inject a third element into it now.

Mr. BIDEN. If I may, for the last time, I have no objection to going to this bill, finishing the bill, and then going to the Manion nomination. The only reason I raised the alternative was that I am concerned that if, in fact, cloture is invoked, then are we now going to be put in the position of those of us who want to then conduct the debate under the rule—so that we have a full debate on Mr. Manion—to be put in the position to be told we are stopping the supplemental from coming up because once cloture is invoked, as the able Democratic leader pointed out, that is a matter that we cannot move from until we end. Are we not into Friday or Saturday? But if the majority leader will give me a gentleman's agreement that while the Senator from Delaware, after he invokes cloture, if he does invoke cloture, is operating under the rules, he will not repeatedly stand on the floor and tell America that those folks on the Manion nomination are really just driving the supplemental out of reach of the American people, et cetera? That is the only thing I am concerned about, to be fairly blunt about it, I say to the majority leader.

□ 1750

But if that will not happen, then I am delighted to do it the way the majority leader would like to proceed.

I did not hear his answer, but I am curious.

Mr. DOLE. I would be happy to work it out. If we invoke cloture, I would certainly try to get the 8-hour agreement I thought we were going to get earlier this week on the nomination, 4 hours on each side, that is what we hoped would happen. We did not think there would be this backdoor approach to kill the nomination.

Mr. BIDEN. The backdoor approach?

Mr. EXON. Will the Senator yield for a question?

Mr. BYRD. I yield to the distinguished Senator for a question. I ask unanimous consent that I may yield for the purpose of the Senator from Nebraska's asking a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, early last week sometime the majority leader and I had a little colloquy on the floor wherein we stipulated the tremendous importance of the urgent supplemental. At that time, we could not act on it because it had not passed the House of Representatives. I thought we had an agreement at that time that we would give it priority or immediate consideration when it came over. It is now here.

This Senator came on the floor at 4 o'clock today prepared to engage in debate and move along on the urgent supplemental for a number of good reasons, not the least of which is farmers throughout the United States have not gotten their money that they are entitled to for signing up for the farm bill, mainly with regard to deficiency payments, and they are busted.

As important as the Manion nomination is, and as important as the security legislation before us is, would it be out of order for this Senator to suggest that maybe we could put aside both of those and dispose of them after we pass the urgent supplemental?

I am asking the majority leader.

Mr. BYRD. I yield to the majority leader.

Mr. DOLE. The distinguished chairman of the Appropriations Committee was here at 4 o'clock. He was advised that if we would complete action on this bill by 4:30, he was ready to go with the supplemental. I suggest that other Members felt compelled to speak on the Manion nomination. The Senator from Missouri made an excellent speech. Others would still like to speak on the Manion nomination.

At about 5:20 or 5:30, I believe it was, the Senator from Oregon, the chairman of the Appropriations Committee, the manager of the supplemental appropriations bill, departed. He did not see any opportunity, and I do not know whether there is one now. I told him, "You may want to place a phone call."

I mentioned the conversation with the Senator from Nebraska. We had a conversation last week and today. We are aware of the Senator's desire. We are trying to balance three things in the air. There are those who want to complete everything by no later than 4 o'clock on tomorrow. I doubt that that can be done.

Mr. EXON. Is it possible that we could get an agreement right now to set aside both the pending business and the debate on the Manion matter so we can take up the urgent supplemental?

Mr. DOLE. If the distinguished minority leader will yield, let me indicate that we are shopping for a time agreement on the supplemental right now. We are not losing time. The chairman of the Appropriations Committee felt if he could get this narrow time agreement, which is being worked on by both sides, we would still be ahead by several hours by doing what we are doing now. We can show that to the distinguished Senator from Nebraska.

Mr. EXON. Is there any objection by anyone presently on the floor to my suggestion to the majority leader, to setting aside the two matters that we have talked about, No. 1, the Security Act, and, No. 2, the Manion nomination, to move expeditiously and now to the urgent supplemental?

Mr. BYRD. If I may respond, the Manion nomination is not before the Senate to be set aside. That is what my colleagues are concerned about.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. BIDEN. I have no objection to that. I do not want to be in the way of this urgent supplemental at all.

Mr. EXON. I would add, if I could, Mr. President, that I also talked with the chairman of the Appropriations Committee and that is one of the reasons I was here at 4 o'clock. He must have come in just after I left. I was here until about 4. He also assured me that he assumed we would take it up at 4 o'clock. Is there no way we can propound a request now, that the majority leader could not propound a request now, to set aside the pending business so we could go to that supplemental appropriations bill? If there is objection to that on the part of the majority leader, then I recognize that is his prerogative.

Mr. DOLE. Again, I would like to discuss it with the Senator from Nebraska, but I would say, if the minority leader will yield for that purpose, it is privileged matter. I would want the chairman of the committee to be present, of course.

Again I get back to the most ridiculous point of this bill before us which is very important, which concerns security. We can still pass that by 6 o'clock. That would eliminate one of the problems. Then we could go ahead with debate on Manion while we are trying to get a time agreement on the supplemental. We are not really losing any time. I think the chairman of the Appropriations Committee would rather have a time agreement for 2 hours than spending all day tomorrow on the supplemental. I believe we are making some progress on that one.

I would be happy to discuss it with the Senator from Nebraska. I know of his interest, and I know of the discussions we have had on the floor and privately.

Mr. EXON. I thank the majority leader.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2193

(Purpose: To express the sense of the Congress on United States policy toward Afghanistan)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia for himself, Mr. HUMPHREY, Mr. PELL, Mr. BIDEN, Mr. INOUYE, Mr. MELCHER, Mr. SASSER, Mr. PROXMIRE, Mr. DECONCINI, and Mr. KASTEN, proposes an amendment numbered 2193.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. POLICY TOWARD AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that "[t]he Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of antipersonal mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children";

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that "[t]he demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

(5) the United Nations General Assembly, in a recorded vote of 80-22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread volations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit.";

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom . . .".

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Policy toward Afghanistan.".

Mr. BYRD. Mr. President, last week I met with leaders of the Afghan resistance, as well as the Pakistani Foreign Minister's to solicit his views on the Afghan question. It is clear to me that, despite Soviet claims of progress at the recent U.N-sponsored peace talks, the situation in that sad country remains very grave. Despite the brutality of the Soviets—and the acceleration of Soviet warfare against the people of Afghanstan—the resistance fighters tell me that the spirit of the people remains unbroken.

Mr. President, the United States ratification of the Genocide Convention will permit the United States a much stronger hand in confronting the Soviet Union on the vital matter of its activities in the nation of Afghanistan. The reality of Soviet behavior in Afghanistan seems to amount to the crime of Genocide as defined in that Convention. Now that the United States will shortly become a full party to that treaty, we can operate with a more credible and stronger hand in bringing the case against the Soviet activities in that country before the world community.

The President, despite the public relations blitz by the new Gorbachev leadership to portray itself as reasonable and flexible in its approach to the West, and despite hints and indications given here and there that Mr. Gorbachev is on the verge of making a major change in Soviet policy toward Afghanistan, no substantial change in Soviet policy or practices has yet appeared. Sooner or later, flashy new Soviet imagery must give way to practical changes in policy leading to a more constructive, humane, and productive path.

Mr. President, I think it is important to give the Soviets every opportunity to meet us halfway on the outstanding issues which divide our two nations. I have made very effort to do what I can to help produce a better atmosphere and mechanisms for reducing misunderstandings and for developing arrangements and agreements on arms control matters and regional disputes where our interests clash with those of the Soviets. I led a bipartisan Senate delegation to meet with Mr. Gorbachev last September. I have proposed that Mr. Gorbachev be invited to address a joint session of the Congress when he visits this Nation, provided that an address by President Reagan to the same joint session be televised unedited to the Soviet people.

Nevertheless, Mr. President, we must continue to impress upon the Soviets how repugnant their activities in Afghanistan are to us.

Most recently, General Secretary Gorbachev took the opportunity provided by his address to the 27th Communist Party Congress to say, "We

should like, in the nearest future, to withdraw the Soviet troops stationed in Afghanistan at the request of its government." He went on to claim that there was agreement with the puppet regime in Kabul on a schedule for that withdrawal, and to remind his audience that, "It is in our vital national interest that the U.S.S.R. should always have good and peaceful relations with all its neighbors."

It is difficult to cultivate good relations when you are engaged in the wholesale massacre of unarmed civilians. I look forward to the day when the glimmers of hope for a change in Soviet policy raised by Mr. Gorbachev's words are translated into action, into reality, into military withdrawal. So far, unfortunately, only expectations have been raised.

The action by the Senate to approve the Genocide Convention for ratification, then, provides the United States with the opportunity to raise, for the first time as a signatory, the issue of Soviet violations of the Genocide Convention in Afghanistan. In his report of November 5, 1985, to the U.N. General Assembly on the "Situation of Human Rights of Afghanistan," the Special Rapporteur of the Commission on Human Rights described the situation during the fifth year of Soviet occupation of Afghanistan in these words:

> The Government, with heavy support from foreign troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations . . . It appears that in the course of operations, all kinds of sophisticated weapons, in particular those that have a heavy destructive and psychological effect, are being used. The target is primarily the civilian population, the villages, and the agricultural structure.

The report continues,

> As a result, not only individuals, but whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged.

The report cites "the use of antipersonnel mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children." The report notes that the war is characterized by the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units. The demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like KABUL.

This independent account by the United Nations conforms to the Genocide Convention's definition of that crime in article II, as the willful act of destroying in whole or part a national, ethnical, racial, or religious group by:

First, killing members of the group;

Second, causing serious bodily or mental harm to members of the group;

Third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Fourth, imposing measures intended to prevent births within the group; and

Fifth, forcibly transferring children of the group to another group.

The U.N. Report substantiates the fact that the Soviet Union and its Afghan puppets are engaged in acts which seem to satisfy the elements of this definition of the crime of genocide. In fact, the report demonstrates that the Soviets in Afghanistan are engaged in many practices which, under the Convention, appear to amount to the crime of genocide.

The amendment I am offering today recognizes that the Soviet actions in Afghanistan may constitute the crime of genocide against the Afghan people, and calls upon the Secretary of State to investigate whether the Soviets are in fact violating their obligations under the Genocide Convention by virtue of their cruel warfare against the Afghan people.

In addition, it urges the Secretary of State to review the U.S. policy that affords diplomatic recognition to the puppet regime in Kabul. There may be sound reasons for this, but I believe it is time for the Secretary of State to conduct a thorough review of whether a continuation of this policy is appropriate. The Soviet Government is at war with the people of Afghanistan, and the so-called Government of Afghanistan is nothing but a Soviet sham.

I do recognize that we are looking forward to the possibility that the Soviets will pull their military forces out of Afghanistan and the Afghan Government that comes to power in the wake of that withdrawal will be the beneficiary of guarantees by both superpowers—and that that government will be independent and neutral and truly represent the whole of Afghan people. Obviously, an American presence is needed for such guarantees, and one might argue that a continued presence such as the one that now exists is therefore appropriate to that long-term goal.

□ 1800

Nevertheless, Mr. President, the entire concept of diplomatic relations in the context of Afghanistan today strikes me as questionable. I believe the question should be thoroughly reassessed by the executive branch on an expedited basis.

Mr. President, the amendment also states that the United States should take every opportunity to increase the visibility, internationally, of what the Soviets are doing in Afghanistan. This should be done in international meetings and fora of all kinds; it should be done by increased media coverage and the use of our programming capabilities.

I have reference to the Voice of America, Radio Free Europe, and other mechanisms available to the Department of State. It should be done by continuing to press the Soviets to allow journalists into Afghanistan so they can report freely on events there. The Soviet invasion and occupation of Afghanistan has been invisible too long. That means for the entire second half of the 7 years it has been going on.

The Soviet Union is getting a good return on the rumors it is floating about its desire to pull out of Afghanistan. As I told General Secretary Gorbachev last year, he has it in his power to end the war in Afghanistan. All he has to do is bring his troops home.

Finally, the amendment recognizes the need for material support for the people of that war-ravaged country, a renewed effort to encourage Soviet withdrawal and a political solution to the stalemate, and a renewed commitment to informing the world of the situation in Afghanistan.

I believe this amendment is entirely in keeping with the President's State of the Union promise to the people of Afghanistan that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom." In 1984, I introduced the first successful Senate resolution calling for essential food and medical assistance for the people of Afghanistan. I believe that this amendment is an appropriate outgrowth of that earlier effort.

I point out, Mr. President, that this will be the first action to be taken by the United States in regard to the terms of the Genocide Convention. I can think of no more appropriate subject for the first action to follow ratification of the convention than the plight of the heroic people of Afghanistan.

When I led the first Senate delegation to meet Soviet General Secretary Gorbachev last September, we found the subject of Afghanistan to be the most contentious and emotionally volatile issue in our discussions. Since that time, we have heard persistent stories of increased Soviet willingness to reach an accommodation on the Afghanistan question. It would be a mistake for the Soviet leadership to believe that talk about solutions will reduce the outrage of the world community. As long as Soviet troops commit atrocities against the Afghan people and continue to occupy that long-suffering country, freedom loving peoples will decry these actions and will be moved to help the Afghan people.

As participants in the Genocide Convention, we are now in a much better position to join in condemning Soviet actions which, as described in the report to the United Nations General Assembly, amount to a calculated effort to destroy the Afghan people.

This amendment will permit the Senate to make an appropriate statement on this matter.

The meeting that I had with Mr. Rabbanni and his group renewed my sense of admiration for the people of Afghanistan. They are courageous and determined in their struggle against a superpower war machine. I believe that we should stick with them for the duration of their long struggle, until they achieve what they so truly deserve—their national independence.

Mr. President, I ask the managers of the bill especially if they feel they have any objection or if it can be accepted.

Mr. HUMPHREY addressed the Chair.

Mr. BYRD. I yield, Mr. President.

Mr. HUMPHREY. Mr. President, I commend the distinguished Democratic leader for proposing this important amendment. I am pleased to join with him in urging our colleagues to accept it this afternoon.

The situation in Afghanistan is outrageous. The Soviets have committed every known barbarity in their invasion and continued occupation and bludgeoning of that poor country. Before the Soviets moved in some 6½ years ago, there were 15 million residents, citizens of Afghanistan. In the intervening years, somewhere between one-half of 1 million and 1 million have been killed as a result of the war.

I am not talking about combatants alone, Mr. President; indeed, they probably make up a small part of those who have suffered casualties. I am talking about men, women, children, and elderly persons who have been deliberately singled out and butchered by the Soviet occupiers and their puppets in Afghanistan. Out of 15 million, something approaching a million have been killed or wounded and some 4 million have fled Afghanistan altogether to Iran or, principally, to Pakistan.

The amendment proposed by the Senator from West Virginia is timely. I want to focus on two provisions of the "Resolved" section of the resolution. The resolution states:

> Resolved that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

And it lists a number of things among which are:

> (E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

The Senator from West Virginia is calling upon the United States to impress upon the Soviets the penalty they will pay if they continue with this occupation. I point out to my colleagues that if the United States Government undertakes what he has proposed here, it will represent a new departure, because we are not doing today anything that this Senator is aware of in the area of diplomatic relations or economic relations to impress upon the Soviets that there is any penalty at all for their continued bludgeoning of the people of that country. We have listed all of the important sanctions imposed by the last administration. They are all gone now. Aeroflot is flying into the United States, Pan American is flying into Moscow. Everything is cozy once again.

I point out that in this year alone, two Cabinet Secretaries have journeyed to Moscow—the Secretary of Commerce back in January, I think it was, or perhaps it was December of last year, with a party of over 100 American businessmen and women seeking new commercial contacts with the Soviet Union. That is a mighty poor way, is it not, to impress upon the Soviets the penalty they pay for their continued barbarities in Afghanistan, a Cabinet Secretary off to Moscow seeking new commercial contracts?

Just this past week, the Secretary of Housing and Urban Development was off to Moscow likewise to seek information on housing.

Mr. President, I am not suggesting that we should pursue a course of belligerence against the Soviet Union. I am saying our relations should be correct, neither warm nor cold, and we should begin to do the things that the Senator from West Virginia suggests—finding ways to impress upon the Soviet Union that there is a penalty for their continued military action in Afghanistan. We are doing nothing today.

It would represent a departure if we did what the Senator from West Virginia suggests. Indeed, it is business as usual today between the Soviet Union and the United States. I regret to say that. I regret to have to point that out, but it is an important point, one that should not go unnoticed in this debate.

One other point on which I want to focus, Mr. President, again in the "Resolved" section, laying out the things that the United States should do as long as Soviet forces continue to occupy Afghanistan. Section 2(B) says that we should review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

Mr. President, this week, much to his credit, the President of the United States entertained leaders of the Afghan freedom fighters in the White House. That was a significant step forward in advancing the standing of the freedom fighters of Afghanistan. It was long overdue, may I say.

But what kind of mixed signal does it send, what kind of inconsistent policy is shown, when the President on the one hand invites the Afghan leaders of the freedom fighters to the White House and, on the other hand, every single day of the year, the American flag is raised at an Embassy in Kabul, the seat of the very government against which those freedom fighters are struggling, with our encouragement in a material sense and a moral sense?

Here we are, encouraging these people to lay down their lives to free their society and we have an American Embassy at the seat of the Government against which those people are struggling. Not only that, perhaps which is worse, that criminal puppet government has representatives here maintaining an Embassy in Washington. That is a classic case of sending mixed signals, that is a classic case of inconsistent policy. When you are trying to send a message to Moscow, the last thing you want to do is send mixed signals.

Mr. President, we cannot have one foot on one side of the fense and one foot on the other side of the fence when we are dealing with the Soviet Union and with this ghastly situation in Afghanistan. If we mean what we say, if the President means what he says and the Secretary of State means what he says and all of the other government officials who periodically make these lofty and inspiring statements about support for the freedom fighters of Afghanistan, then let us have a consistent policy. Let us send meaningful signals of the kind the Senator from West Virginia seems to imply so that the Soviets will understand the penalty that they will pay for continued military occupation of Afghanistan.

□ 1810

Let me just close with this observation, Mr. President. The Senator from New Hampshire has made a priority issue out of this matter of Afghanistan. I have looked at it closely now for 2 years. If there is one lesson to be learned, if there is one bottom line observation to be made about our efforts with respect to Afghanistan, it is this: There is nobody in charge, and that is why we have all these problems. That is why we have these inconsistencies. That is why we are sending mixed signals. That is why there is so little cooperation and coordination between the executive departments of this Government in implementing policy and turning into policy the lofty rhetoric of the President and the Secretary of State.

Truly, within the entire executive there is not one high-level official with any clout who spends full time on Afghanistan, making sure that all of the executive departments pull together. There is no such person. The management of our Afghanistan effort is part time and conducted by committees who meet from time to time and

hash things other. That is no way to run an operation of this kind, especially when the stakes are so very high, not only for the people of Afghanistan but for the American people and for people everywhere who love freedom.

Mr. President, I and others have urged the administration to put someone in charge, to create a special office, if that is necessary, to catalog the opportunities that are available to us to send these kinds of signals. We are not calling for belligerence toward the Soviet Union but there are opportunities to bring additional military pressure to bear, additional economic pressure to bear, additional diplomatic pressure to bear, additional pressure of international public opinion to bear, opportunities that are being missed because there is nobody in charge.

I urge once again, Mr. President, although it is not part of this resolution, that the administration put somebody in charge, create an office that can catalog the opportunities, recommend policy—I am not saying make policy, recommend policy—and when it is adopted ensure that all of the executive departments and agencies cooperate and comply in carrying out that policy.

I commend the Senator from West Virginia for this important resolution and I urge my colleagues and fellow Senators to support it wholeheartedly.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Hampshire [Mr. HUMPHREY] for his strong support not only of the amendent in this instance but I thank him for his statement that he has made this matter involving savage slaughter of innocent women and children, old men in Afghanistan by the Soviet invaders a priority matter. I hope that other Senators will do the same. I commend him.

Mr. President, for the record, Mr. HUMPHREY is a cosponsor of this amendmnet, as are the following Senators: Mr. PELL, Mr. BIDEN, Mr. INOUYE, Mr. MELCHER, Mr. DECONCINI, Mr. SASSER, Mr. PROXMIRE, Mr. DOLE, Mr. WILSON, and Mr. DENTON.

Mr. President, I ask unanimous consent that other Senators who may wish to add their names as cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment. I am prepared to vote on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that before the vote just ordered on the Byrd amendment the Chair turn to the conference report to accompany H.R. 4420, the Military Retirement Reform Act and it be considered under the following time agreement: 10 minutes on the conference report to be equally divided between the chairman of the Armed Services Committee and the ranking minority member or their designees, and that following the conclusion or yielding back of time the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. To be clear then, I ask unanimous consent that following the vote on the conference report we would vote on the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. LUGAR. Mr. President, I should like to ask the leader if it would be possible for me to proceed with two technical items with regard to the security bill so that all would be tidied up prior to the vote on the Byrd amendment. My understanding is that there is no request for a rollcall vote on the overall bill, and we would be able to proceed to completion.

Mr. DOLE. Mr. President, I also ask unanimous consent there be no amendment to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And in addition, prior to the vote on the Byrd amendment, the distinguished chairman be permitted to offer technical amendment to the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MILITARY RETIREMENT REFORM ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The report will be stated.

The Assistant Legislative Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes, having met, after full and free conference, have agreed to and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. WILSON addressed the Chair.

Mr. STENNIS. May we have order, Mr. President.

The PRESIDING OFFICER. The request for order is needed.

The Chair recognizes the Senator from California.

Mr. WILSON. I thank the Chair.

Mr. President, I rise in support of this conference report which provides for changes in the military retirement system. I hope these changes will be viewed for what they are. They have been occasioned by an act of Congress requiring that the Senate Armed Services Committee and that in the House examine into the question of whether or not we may quietly compensate those who are peacekeepers for the United States and at the same time find ways of cutting costs. Some will regard these changes as long awaited reform, Mr. President. Others may not.

It is my hope, after the long, long hours of work, that this settlement will be regarded as fair and equitable, and at least as importantly that the changes made will assist the military in continued success in recruitment and retention of the kind of quality volunteer force that virtually all have acclaimed is of the highest quality in recent years.

Mr. President, I will give a very brief description of the elements of the House-Senate compromise. It is one that I think both the House and Senate have worked hard to achieve. The pay base will be that based on an average of the highest 3 years of salary. The multipliers will be for the period of the years 1 through 20, for someone retiring at the end of 20 years, 2 percent for each year. For years 21 through 30, for those that remain a full 30 years, there will actually be a 3.5 percent per year factor applied against that high 3-year base average.

The result of these changes, Mr. President, will be that someone who retires at the end of 20 years will receive 40 percent of that base; someone who retires at the end of 30 years will receive 75 percent of the base. The compromise I think goes a long way toward encouraging people to make at least a 20-year career of the military. That decision is made between the 6th and 12th year of service by most who make the election to become career enlisted or officers. The smaller number who remain for a full 30 years are encouraged to do so by a more handsome rate of retirement. All persons receiving benefits from military retirement will receive a cost-of-living adjustment of CPI minus 1, or of the Consumer Price Index less 1 percent for life. But

apply to them. This legislation recognizes the promises that we have made to our military personnel, and I am determined not to break those promises. In a moment, I will defer to Senator WILSON, the chairman of our Manpower Subcommittee, who will explain the provisions of the retirement reform measure in detail.

Mr. President, this bill also contains the resolution of the controversy between the Defense Appropriations Subcommittee and the Armed Services Committee over the issue of excess or unauthorized appropriations. I am happy to say that we have worked out our differences in a very amicable way, and I want to express my very sincere, personal appreciation to the chairman of the Defense Appropriations Subcommittee, Senator STEVENS, for his cooperation in helping resolve this matter. Through this process, we have forged what I believe will be a greatly improved working relationship between the Armed Services Committee and the Defense Appropriations Subcommittee.

Mr. President, that concludes my remarks. I hope we can now move this conference report expeditiously. It is not a controversial bill, but it is important that we pass it today in order to avoid having to lay off several thousands of people in the Defense Department.

I thank the Chair.

The PRESIDING OFFICER. The time on the conference report has expired.

The Chair recognizes the Senator from California.

Mr. WILSON. Mr. President, I thank the distinguished chairman of the Armed Services Committee.

We are ready to vote, Mr. President. The majority and, I believe the minority, do not see the necessity for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued consideration of the bill.

Mr. LUGAR. Mr. President, earlier today during consideration of two amendments by Senator HELMS, Nos. 2190 and 2191, Senator HELMS agreed to modifications in a colloquy with me. However, through inadvertence the amendment submitted to the desk did not reflect those modifications.

I ask unanimous consent that the corrected copies of those amendments, with the modifications, be substituted to the versions submitted earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendments, Nos. 2190 and 2191, have been so substituted.)

Mr. LUGAR. Mr. President, I know of no further amendments.

AMENDMENT NO. 2193

The PRESIDING OFFICER. The question is on agreeing to Amendment 2193. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON: I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting the Senator from Florida [Mrs. HAWKINS], and the Senator from South Carolina [Mr. THURMOND], would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—94

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Pell
Boren	Hart	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hatfield	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chiles	Hollings	Roth
Cochran	Humphrey	Rudman
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kassebaum	Simon
Danforth	Kasten	Simpson
DeConcini	Kennedy	Specter
Denton	Kerry	Stafford
Dixon	Lautenberg	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Symms
Domenici	Long	Trible
Durenberger	Lugar	Wallop
Eagleton	Mathias	Warner
East	Matsunaga	Weicker
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky
Ford	McConnell	
Garn	Melcher	

NOT VOTING—6

Chafee	Hecht	Packwood
Hawkins	Laxalt	Thurmond

So the amendment (No. 2193) was agreed to.

□ 1850

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I ask unanimous consent that the Senator from South Carolina [Mr. THURMOND] be added as a cosponsor to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

There will be order in the Senate. There is too much conversation. Please remove your conversations to the Cloakroom. We cannot hear the Senator from Indiana.

Mr. KASTEN. Mr. President, I wonder if the distinguished Senator from Indiana will yield for a question?

Mr. LUGAR. I am happy to yield.

Mr. KASTEN. I am advised that the funding contemplated by this legislation will provide an increase of about 400 new positions for the Department of State's diplomatic security services.

Mr. LUGAR. The Senator from Wisconsin is correct.

Mr. KASTEN. Mr. President, it is my understanding that some of the new positions authorized in this bill are to be assigned on a nonreimbursable basis to the small security office of AID. It is my understanding that the discussions have focused on approximately 15 positions. This arrangement, which I strongly endorse, results from discussions between the Foreign Relations and Appropriations Committees with appropriate officers of the Department of State and AID. I wonder, Mr. President, if my understanding on this point is shared by the distinguished chairman, the Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Wisconsin is correct in his understanding. A key consideration in this legislation is the necessity to fix responsibility for security of our diplomatic personnel in one officer, the Secretary of State. Section 106(a) of the act, however, in the interest of organizational effectiveness, vests authority in the Secretary to delegate operational control of overseas security functions of other Federal agencies to the heads of those agencies who remain fully responsible to the Secretary of State in the exercise of those delegated duties. In terms of day-to-day security operations, the AID security group must be able to execute and administer for AID's overseas personnel the Department's security standards and policies. It is with this requirement in mind that the Department of State and AID have determined that a limited number of these new positions, as the Senator from Wisconsin has indicated, should be made available to AID, funded from the supplemental appropriations provided under this bill.

Mr. KASTEN. I thank the distinguished Chairman, Mr. President. I believe the arrangement we have discussed here will enhance the effectiveness of this legislation by insuring that AID has sufficient resources to fully support the Department's security requirements in these hazardous times.

Mr. DENTON. Mr. President, the shocking hijacking of TWA flight 847, EgyptAir 648, the airport massacres in Rome and Vienna and the bombing of TWA flight 840 underscores the necessity for effective security at airports in this country as well as abroad. The aftermath of these bloody terrorist episodes demonstrated that lax airport security may have provided the opportunity for terrorists to carry out their grim mission of vengeance and death.

Mr. President, the United States must take a lead in securing its airports from access by terrorists and must also work with the international community to prevent the loss of lives of innocent air travelers at the hands of terrorists. To allow this Nation to take such a lead, I introduced S. 2468, the Antiterrorism and Air Security Act, a bill which was referred to the Commerce Aviation Subcommittee chaired by my distinguished colleagues from Kansas, Senator KASSEBAUM.

The Antiterrorism and Air Security Act will require that a criminal history check be conducted on any airline or airport employee whose duties permit them access to secured areas of airports or to commercial aircrafts. The act also proposes to make it a Federal crime to enter airport secured areas without authority. The latter provision is intended to deter the unlawful circumvention of airport security systems as well as the unauthorized penetration of secured areas on airports. Such activity must be forcefully proscribed by Federal law to combat any threat of terrorist activity against civil aviation in this country.

Mr. President, I had considered offering the substance of S. 2468 as an amendment to the bill currently being considered. However, after talking with Senator KASSEBAUM, chairman of the Aviation Subcommittee, who shares my concern over the safety of our airports, we concluded that it would be beneficial to conduct a joint Judiciary Security and Terrorism Subcommittee/Committee Aviation Subcommittee hearing on the question of airport security in general and S. 2468 in particular.

Therefore, at this point I will not offer S. 2468 as an amendment.

I look forward to working with Senator KASSEBAUM in our joint effort to protect our Nation's airports.

KOREAN TRADE PRACTICES—AMENDMENT NO. 2180

Mr. WILSON. Mr. President, I want to join with my colleague and friend from Kentucky, Senator MCCONNELL, in denouncing the blatantly unfair and protectionist trade practices of the Republic of Korea. This country, which has benefited so greatly from its friendship with the United States, should not so cavalierly maintain old trade barriers nor continue to erect new ones. Yet, Mr. President, it does.

The barriers run from high technology goods and electronic products to agricultural goods, both fresh and processed. The barriers also extend to pharmaceuticals, chemicals, books, and movies, which are denied fair market access both through tariffs and quotas and by refusal to provide adequate protection for intellectual property.

Mr. President, in the area of agriculture, South Korea maintains the most protectionist import policy of the newly industrialized countries in Asia. The list of trade barriers, particularly to high-value or specialty crops, is extensive and entrenched. Let me just point out a few examples.

The Korean Government, on January 1, 1986, implemented a comprehensive plan to protect their industries from agricultural imports. They attempted to justify these new import restrictions by arguing that balance-of-payments problems force them to preserve foreign currency. A Korea Trade News article on December 6, 1985, outlined this management plan that would be used to effectively control imports. This plan included several actions that are injurious to California.

For example, the Ministry of Agriculture and Fisheries has been sending letters to importers of raisins and citrus fruits informing them that importing such goods is contrary to the policy of conserving foreign exchange, and urging them to work with their customers to reduce the volume purchased.

South Korea has also tightened quarantine procedures against California citrus and requires our citrus to be subjected to 2 weeks of zero degree temperatures. This seriously reduces the high quality of our fruit, and is an unjustified nontariff barrier.

The other measures that went into effect on January 1 include a continued suspension of all high-quality beef imports, and imposition of quotas on frozen potato imports designed to keep imported french fries out of supermarkets.

The U.S. Agricultural Counselor in Seoul, in a report he submitted on December 23, 1985, concluded about these measures that "Traders in food products all report that they are experiencing overt pressure (letters and warnings) and indirect pressure (extra redtape and unexplained delays) aimed at discouraging imports of consumer-ready products, and that this pressure has been increasing in recent months."

In particular, the Koreans' move to tighten quarantine procedures has focused on California citrus, which is required to be subjected to 2 weeks of zero degree temperatures. The Koreans have unilaterally and incorrectly declared all California citrus to be infested with the Mediterranean fruit fly, in spite of the fact that the USDA gave California citrus a clean bill of health over 3 years ago.

In early December of last year, the USDA invited Korean scientists to come to the United States to make a firsthand inspection of their claims of fruit fly infestation, but to date, the Korean Government has not yet responded to the invitation.

Let me mention briefly a few other entrenched barriers. Korea maintains a senseless 60-percent tariff on United States raisin exports. There is no logical justification for this barrier since there is no raisin industry in South Korea to protect. The California Raisin Advisory Board has shown a positive and aggressive business attitude by developing a marketing program in Korea using targeted export assistance funds. Their efforts will be wasted if this trade barrier remains intact.

Finally, Korea was also a country designated by the USTR under the Wine Equity Act, which I authored in 1984, as a country that has significant market potential for United States wine sales, but maintains trade barriers, including tariffs, inhibiting such wine trade. Consultations with Korea to rectify these trade barriers have produced no results to date.

Now, outside the area of agriculture, there have been some promising signs. For example, there are press reports that the pending actions against Korea brought under section 301 of the Trade Act of 1974, covering insurance and intellectual property, are progressing significantly. Also, we are eagerly awaiting changes in Korean laws that will allow United States film distributors to do business in Korea.

Nevertheless, there are so many other important disputes to be settled, that we must press for continued improvement in order to allow for continued designation of the Republic of Korea as a beneficiary under GSP after the completion of the general review prior to January 4, 1987.

Mr. President, I commend the distinguished Senator from Kentucky [Mr. MCCONNELL], for bringing the present troublesome situation in United States-Korean trade relations to the attention of the Senate, and I sincerely hope that we can settle this matter quickly and comprehensively.

AMENDMENT NO. 2180

Mr. THURMOND. Mr. President, I rise today in support of the amendment by Senator MCCONNELL to the diplomatic security bill. This amendment expresses the sense of the Senate that the Republic of Korea should not be treated as a beneficiary developing country under the U.S. Generalized System of Preferences until Korea discontinues its "unreasonable, unjustifiable, and discriminatory acts, policies, and practices" with respect to trade. This amendment is identical to Senate Resolution 369, of which I am a cosponsor.

Last month, the President of the Republic of Korea made a commitment to Senator MCCONNELL that the National Assembly of Korea would pass a bill to privatize the Korean tobacco monopoly. Yesterday, the Korean Na-

tional Assembly completed its special session. Not only did this bill not pass the Assembly, but the entire bill was withdrawn. I am disappointed that the Koreans did not carry through with this commitment.

Mr. President, this action by the Korean Assembly is particularly disappointing in view of the fact that Korea continues to flood our market with textile imports. For calendar year 1985, Korea was the source of over 10 percent of the textile and apparel imports coming into the United States. In fact, their total shipments of over 1.1-billion-square-yard equivalents was second only to the total sent to the United States by Taiwan.

Many of us have hoped that the Koreans would open their market to American businesses. U.S. businesses would like to trade with the Koreans. Unfortunately, this latest action shows a lack of commitment on the part of the Koreans. I am prepared to support legislation that would correct these trade inequities, and urge my colleagues to do the same.

THREATS TO THE INTEGRITY OF RURAL AND FARM STATISTICS

Mr. ABDNOR. Mr. President, by official count, more rural people live in the United States today than at any other time in history. This probably comes as a surprise to many Americans, rural and urban alike.

This highest-ever number of rural Americans occurs despite the fact that only 26 percent of our total U.S. population is rural. It is this percentage that is so often cited to indicate a decline in the rural population. For while half of the nation was rural at the end of World War I, about one-fourth is today. Rural population growth has always been a part of our country's overall growth, yet, only the declining percentage seems to receive attention and, by implication, to the detriment of rural inhabitants.

Still, and contrary to conventional hearsay, the number of rural people is growing rather than shrinking. According to the latest figures available for 1984, over 61 million people are rural residents. This number approximates the number of all people in our country a century ago.

There are as many rural Americans as all who live in the Nation's eight largest cities—New York, Los Angeles, Chicago, Philadelphia, San Francisco, Detroit, Boston, and Houston. Illustrated in other ways, rural people in total outnumber the combined population of the three largest States as well as that of the 30 smallest States. There are nearly as many rural people as there are persons under age 18 across the United States. The number of rural people in America is simply a large number by any national comparison.

While we can now realize that the rural population is large, we cannot know as much as we need to know about this major component of our society and economy. Studies tell us, for example, that rural unemployment data—one of the most salient pieces of information on the well-being of rural America—are tragically underestimated. Beyond shaky statistics on employment is evidence of even higher levels of underemployment in rural areas. Studies of such topics are reported in a new publication, "New Dimensions in Rural Policy," which has been prepared through the Joint Economic Committee.

Another rural-related topic that obviously requires more detail and attention is agriculture. Agriculture remains the dominant force behind economic and social well-being in many hundreds of our counties and, just as important, is the major national industry for rural and urban jobs alike. Yet, the U.S. census of agriculture is facing restrictions from Office of Management and Budget on top of continued funding difficulties as the Census Bureau gears up for the 1987 collection of data on farms throughout the more than 3,000 counties of the States.

Perhaps at no time has there been a greater need for a better count of our farms, farm operators, and indicators of what has been happening to our farms. American agriculture and hundreds of thousands of farmers in this proud land have taken a beating far too long. There is a strategic need to know how farms have changed since the last census of agriculture in 1982. We need more information on the factors that have torn at our way of farming, factors that have stressed individuals and farm families, factors that have strained or collapsed so many rural and farm communities, and factors that are sapping one of America's strengths.

The burden of ignorance of these matters is severe. To address the ongoing rural and farm crisis and to better manage long-term changes, we need quality data from our national agencies which provide it. Indeed, the provision of these data is a national responsibility to the federation of our States and to local areas.

All Americans benefit from this information. With quality data on rural and agricultural situations, citizens, scientists, and policy analysts can better provide the suggestions which can lead to valid, lasting rural and farm policies.

Today I call for quality data on rural and farm America. The integrity of rural and agricultural data must be protected and enhanced. Without accurate knowledge of the problems, attempting policy solutions may be ineffective, wasteful, and even counterproductive. The millions of our citizens who are facing the special problems of rural America certainly rate fair and comprehensive data on their conditions.

Late last week, the Census Advisory Committee on Agricultural Statistics—a group of representatives from agricultural businesses, farm organizations, farm labor organizations, agricultural universities, and agricultural scientists—unanimously passed a resolution that the Bureau of the Census and the agricultural division should move ahead without further restraint to finalize plans for the critically important 1987 census of agriculture.

Mr. President, I ask unanimous consent that their resolution be printed in the RECORD at this time.

RESOLUTION

Whereas the recent and ongoing agricultural and rural crisis demands quality census data including economic and social agricultural statistics,

Whereas the U.S. census of agriculture provides data for the Nation, States, and the only county level data and thereby carries the federated responsibility for us all,

Whereas we share the goal of obtaining high quality agricultural census data at the county level for use by Federal agencies, State governments, local county agencies, businesses, and private groups,

Whereas the mail-list development procedures are one important component in the process of building an accurate base for the 1987 census, follow-on surveys, and future censuses,

Whereas the census of agriculture is faced with the externally imposed prospect of moving from a methodology dependent upon carefully developed lists with nonfarm names to an optional combination of mail lists and area samples,

Whereas the loss of a large mailing list will make it impossible to produce detailed, county level data,

Whereas the quality and comparability with previous censuses would be lost and any follow-on surveys such as a farm finance survey would be impaired, and

Whereas list development for the next census would also be adversely affected,

It is resolved that:

The Advisory Committee on Agricultural Statistics supports the commitment of the Bureau to preserve and enhance the integrity of the data at the National, State, and the important county levels.

We support the Bureau's efforts to enhance mail list development and experimentation with data collection techniques which will improve lists and response rates,

As in the past, we support the concept of area samples as a supplement to State estimates but feel that area sampling cannot replace the need for county level estimates,

We recommend that the solution to quality agricultural census data with integrity at the National, State, and county levels lies not in budget cutbacks or in mail list restrictions but, instead, in the base of tried, demonstrated, and improved data collection techniques carefully developed through the experiences of recent censuses, and

We recommend that the agricultural census mailing list have an adequate number of addresses to maintain previous levels of completeness, as recommended by the Census Bureau, in the range of 3.7 to 4.0 million addresses.

Mr. President, let us not fail rural and agricultural America for lack of knowledge that is within our grasp. Rather, let us gain knowledge upon which to base sound solutions.

Mr. LEAHY. Mr. President, I rise to voice my strong support for the Diplomatic Security and Anti-Terrorism Act.

With the increase in recent years of terrorist attacks against Americans and American installations overseas, Congress has enacted a number of important pieces of antiterrorism legislation. As the ranking member on the Subcommittee on Security and Terrorism, I am proud to have worked closely with Chairman DENTON on many of those measures. They include the enabling legislation for the Conventions Against Hostage-Taking, Aircraft Hijacking and Crimes Against Internationally Protected Persons. A program of antiterrorism assistance to foreign countries has been established, a rewards-for-information fund was authorized and funded, and a major airport security measure was adopted.

Since 1980, as a result of major attacks on United States Embassies in Iran, Pakistan and Libya, Congress embarked on a 5 year Security Enhancement Program and approved yearly supplemental funds for overseas security. Total State Department funding for security since 1980 has totaled over $1.4 billion.

Because of all that Congress has spent on security during the past 6 years, this legislation demanded careful scrutiny by the Congress. The administration requested almost $4.4 billion for diplomatic security over the next 4 years. That would amount to a fourfold increase in funding over the past 6 years, at a time when we are making major cuts in important domestic social programs.

No security is foolproof. We can never make our embassies impenetrable. We must resist the tendency to adopt a "bunker" mentality, whereby our embassies become fortresses and our diplomats cut off from the people of the countries where they are stationed. If we allow the fear of terrorism to overwhelm us, the terrorists will have won an important victory. They will hold this entire country hostage.

I support strong measures to combat terrorism. I have often recommended that we develop a comprehensive counterterrorism policy. Such a policy should be based on diplomacy, and include the ability to deter terrorist attacks by extraditing and prosecuting terrorists, and, if necessary, the discriminate use of force. Finally, we must do what is reasonably possible to protect our diplomats stationed overseas.

I believe that this bill, as reported from the Committee on Foreign Relations, is a good compromise. It authorizes appropriations for diplomatic security and antiterrorism totaling $1.1 billion for 1986-87, rather than the $4.4 billion over 4 years proposed by the administration.

In arriving at this amount, the committee considered that not all funds previously appropriated for security have been spent, that some of the administration's goals do not directly relate to security, and that others can be accomplished with less money and better management. This bill will insure that existing resources are used in ways which save lives and protect American interests. That is exactly what we should be doing, and I urge my colleagues to vote for it.

Mr. THURMOND. I rise to commend Senator LUGAR and the members of the Foreign Relations Committee for their efforts in bringing this important legislation before the Senate today.

Terrorism has increased dramatically in the last 5 years. I am particularly concerned that much of the terrorist activity has been directed against United States' interests and installations abroad. The vicious attack in 1984 on American Marines in Beirut, Lebanon is a clear illustration of terrorism specifically targeted at our Nation. The tragedy in Beirut and other acts of terrorism directed at American officials abroad raise important questions concerning the physical security of United States' Embassies and our other installations throughout the world.

Passage of the Diplomatic Security and Anti-Terrorism Act of 1986 is necessary so that our Nation can better defend against terrorists attacks. This legislation establishes the Diplomatic Security Service (DSS) which will be responsible for the security of our Embassies. The DSS will operate under the supervision of the Secretary of State. Substantial capital improvements to existing diplomatic facilities in order to improve security are authorized by this bill. The necessary construction work is to be performed by American contractors.

Mr. President, this legislation is of vital importance in order to protect Americans who serve our Nation overseas. I urge its passage.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4151), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD and Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. Mr. President, I will only be 1 minute. So that the distinguished Senator from Maryland will get the floor, I only want a minute, and I yield the floor.

Mr. MATHIAS. Mr. President, I have a unanimous-consent request, one that I have discussed with the chairman of the Committee on Foreign Relations and with the ranking minority member of the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that conferees on behalf of the Senate Governmental Affairs Committee be appointed specifically to deal with the Grassley amendment to H.R. 4151.

The Grassley amendment eliminates two sections of the District of Columbia Code from the law which prohibit and set penalties for interference with foreign diplomatic and consular offices, officers, and property. In addition, the amendment would bring the District of Columbia under the jurisdiction of the Federal proscriptions contained in 18 U.S.C. 112. As such, it is a matter which is arguably within the jurisdiction of the Subcommittee on Governmental Efficiency and the District of Columbia of the Governmental Affairs Committee. For this reason, I ask that representatives from that committee be appointed to the conference to address this amendment.

The PRESIDING OFFICER. The Senator is advised we have not yet appointed conferees on this bill.

Mr. MATHIAS. My unanimous consent was when they are appointed that there be conferees on behalf of the Governmental Affairs Committee on that specific amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. I thank the minority leader.

Mr. BYRD. Mr. President, if I might have 30 seconds.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. I compliment the manager and the ranking manager, Mr. LUGAR and Mr. PELL respectively, on the skill and the great dedication to the sense of purpose which they have demonstrated in handling the embassy security legislation. At all times they exhibited great forebearance, patience, and understanding toward those Senators who sought to bring up amendments. I thank them for the good job that they have done on behalf of the Senate.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I thank the majority leader, and the minority leader, for their cooperation.

Mr. BYRD. Mr. President, may we have order in the Senate so that we can hear the distinguished manager of the bill?

The PRESIDING OFFICER. Will conversations going on please cease?

We are asking for order in the Senate. The Democratic leader's request was well made. Please desist from further conversations.

The Senator from Indiana.

Mr. LUGAR. Mr. President, in addition to my thanks to the majority and minority leaders, I thank, of course, the distinguished ranking member of our committee, and all members of our committee who have prepared this markup and debate on this legislation. Also I want to thank the members of the staffs on both the majority and minority sides, and all Senators for giving us this opportunity.

Mr. PELL. Mr. President, I concur in these thoughts of the Senator from Indiana. I am very grateful to him, to our staffs, and to the leadership which helped us keep this bill on the road.

THE JUDICIARY

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. PELL. In view of the fact that for the moment I have the floor, I would like to glide into another subject, the subject of Daniel Manion to be a judge in the U.S. Court of Appeals for the Seventh Circuit which concerns me very much indeed.

I had the benefit of a long talk with him in my office and found him to be very open, honest, and decent. However, measured against the qualifications needed for a Federal circuit court judge, he simply does not measure up, in experience or legal scholarship. Because of his lack of qualifications I must oppose his nomination.

In my opinion, it is a shame that Mr. Manion has to bear the weight of criticism which has been most severe. This criticism should more properly be reserved for those in the executive branch who made such a poor selection for this nomination.

I would add here that I am not amongst those who have criticized Dan Manion because of his beliefs or his loyalty to his father's precepts or because he wanted the Ten Commandments displayed in school rooms. Rather I only wish that he had the judicial qualifications that would have permitted me to vote for him. I would only hope that in the future, the executive branch would send up candidates who are qualified and whom we in the Senate can proudly support. To send up a nomination like this can hurt a very fine young man without any real reason.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the confirmation of Daniel Manion to be a Federal judge in the U.S. Court of Appeals for the Seventh Circuit.

Let me respond at the outset to those who are so piously regretting that this issue may well be decided on a cloture vote instead of an up-or-down confirmation. That argument is disingenuous. The simple truth is too many Members of this body will vote for any administration nominee who is still breathing. The Justice Department hit bottom when it persuaded President Reagan to submit Mr. Manion's nomination. By rejecting the nomination the Senate will be sending an unmistakable message to Attorney General Meese that we expect future judicial nominees to meet at least minimum standards of competence.

Mr. Manion's nomination is in trouble for one reason only—his extreme lack of qualifications. He has had no experience in Federal courts. His briefs in State courts border on illiteracy. He insulted the Supreme Court by defying one of its key decisions interpreting the Constitution. He is opposed by the deans of a long list of major law schools throughout the country, and, compounding all of his other demerits, he refused to come clean in his Senate confirmation hearing.

Mr. Manion is a conservative—but ideology is not the issue in this debate. In fact, the issue of ideology is a red herring in the literal sense—a false odor dragged across the trail of Senate debate to confuse the real issue.

Democrats have voted to confirm dozens of President Reagan's conservative judicial nominees—but they have all had adequate qualifications. Manion flunks the test, not because he is conservative, but because he is not qualified. If the President wants to point the finger of blame for this fiasco, he need point no further than Ed Meese for setting the standard of qualifications so low.

In fact, the shoe is on the other foot. Mr. Manion's lack of qualifications to be a Federal circuit judge is so striking that it suggests he was nominated solely because of his conservative ideology and not for any distinction in the law.

In 1979, when I was chairman of the Senate Judiciary Committee, we held specific hearings on the selection and confirmation process for Federal judges, in order to develop a workable and effective set of standards to guide the committee in its evaluation of judicial nominees.

During the course of those hearings, Senator THURMOND, then the ranking minority member, noted that "it is important that we keep in mind and centrally focus our efforts on the fact that we must have qualified people on the bench • • • our emphasis, therefore, must be on ensuring that the judiciary of this country remains filled with judges of superior quality and merit."

Senator THURMOND went on to note that this task "is not to be taken lightly but (is) one which the Senate and this committee, as a screening tool of the body, must accomplish with careful scrutiny of each nominee." He then promised that he would continue to "fully evaluate the candidates to ensure that only those people best qualified for appointment are favorably reported" by the Judiciary Committee.

I completely agree with the views expressed by Senator THURMOND in 1979 concerning our advice and consent responsibilities as Members of the Senate.

Daniel Manion's nomination was not favorably reported by the Senate Judiciary Committee, and for good reason. He is not an individual of "superior quality and merit." Nor is he among the "best qualified for appointment."

The composition of the Seventh Circuit Court of Appeals and the credentials of the 13 judges now serving on that distinguished bench prove the point.

Six of the 13, almost half of the current bench, were already judges at the time of their nomination to the seventh circuit. Each had demonstrated an ability to analyze complex legal issues and judicial precedents, to apply the law to the facts in complex cases, and to write lucid, well-reasoned judicial opinions for the guidance of other courts, the bar, and the country as a whole. The skills and experience required for members of the seventh circuit were nothing new to these six judges.

An additional five members of the seventh circuit had distinguished themselves as faculty members at law schools prior to their appointment. Their experience obviously qualified them to meet the challenging tasks of the Federal appellate courts. Both roles require an exceptional ability to analyze complex questions of law and explain their views in clear, concise, and compelling terms.

The remaining two current members of the seventh circuit had been practicing attorneys for 25 years at the time of their appointments. And each of them had substantial litigation experience in the Federal courts.

By comparison, Mr. Manion has no experience even remotely approaching the distinguished qualifications of the judges he aspires to join. He has never served on the bench, he has never published a scholarly work, he has never been a faculty member at any law school, and he has never had any significant experience in dealing with Federal or constitutional issues. In fact, Mr. Manion has never even argued a Federal or a constitutional claim in the court to which he seeks appointment.

Mr. Manion's lack of qualifications is obvious to leaders of the bar. He received the lowest passing grade from the American Bar Association's Committee on the Federal Judiciary; a minority of the ABA committee found him unqualified.

The Chicago Council of Lawyers, an organization of 1,000 attorneys in the largest city in the seventh circuit, concluded that Mr. Manion is not qualified. More than 40 law school deans, in

Mr. President, I ask unanimous consent that a copy of a letter to Senator DOLE be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 4, 1986.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: Oklahoma farmers are going to be put in a real bind unless Congress takes immediate action to fund the Commodity Credit Corporation. Today, the Commodity Credit Corporation (CCC), which funds government farm programs, ran out of money.

As you know, the Senate has included $5.3 billion to fund the CCC in its supplemental appropriations bill. However, the House included no additional funding in its supplemental spending bill. As you may recall, an indefinite CCC appropriation requested by the Reagan Administration passed the Senate but was dropped in conference with the House. Such a measure would have prevented the need for periodic CCC supplemental appropriations.

It is Congress' responsibility to compensate the CCC for losses incurred beyond its $25 billion spending authority. On behalf of agriculture producers in Oklahoma and through the nation, I strongly urge your assistance and that of our colleagues in obtaining approval of the necessary CCC funding.

Sincerely,

DON NICKLES,
U.S. Senator.

Mr. NICKLES. Mr. President, it is the responsibility of Congress to compensate the CCC for losses. If Congress is to fulfill its obligation to the farmers of America, the House and Senate must stay in session until the necessary CCC funding is passed and signed into law. This reminds me of a time last summer when I warned that unless Congress completed action on the wheat section of the farm bill, Oklahoma farmers would be unable to make planting decisions based on program details. Farmers lost that round. Mr. President, how many times will congressional inaction result in a loss to the farmers of America? How often will Congress rebuff the Nation's No. 1 industry?

Some of the President's advisers, have expressed opposition to provisions other than the CCC funding in the appropriations bill. I have asked several of my colleagues to join me in a letter to the President urging timely approval of legislation containing the necessary CCC funding. Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 24, 1986.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: Soon, Congress may send you a supplemental appropriations bill containing sorely needed Commodity Credit Corporation (CCC) funding. Approval of this legislation will allow resumption of farm program payments, which have been suspended since June 4.

Last December, you approved legislation authorizing five years of farm programs. Now, farmers are harvesting the first crop under the new law and are unable to receive program benefits. Mr. President, they want and need to be paid. To a great extent, the existence of rural families and communities hinges on timely farm program funding.

Your advisers may urge you to veto the appropriations bill over a separate provision they find objectionable. If so, we urge you to act independently, considering a cost too often lost in billion dollar budget figures—the human costs the American people will pay if farm programs remain unfunded.

With this in mind, we strongly urge you to approve legislation containing the necessary farm program funding. Your consideration of this request is greatly appreciated.

Sincerely,

DON NICKLES,
U.S. Senator.

Mr. NICKLES. Today, we must move on farm program funding legislation so local ASCS offices can deliver on the promises made by Congress. A letter I recently received from an Oklahoma constituent clearly states the problem at hand. I ask unanimous consent that the letter from E.O. Wheeler with Wheeler Bros. Grain Co. be printed in the RECORD following my remarks and I urge my colleagues to join me in heeding its call.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[Mailgram]

WHEELER BROS. GRAIN CO.,
Watonga, OK, June 21, 1986.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SIR: The Oklahoma wheat harvest is nearly complete. Our farmers need to be able to receive the Government loan payments. Many farmers have land payments and other bills due July 1st. We very strongly urge you to do whatever it takes to see that the local ASCS offices can start writing checks as soon as possible.

Sincerely,

E.O. WHEELER.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 655, H.R. 4151, the diplomatic security bill. The managers are here and prepared to go.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4151) to provide enhanced diplomatic security and combat international terrorism, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Diplomatic Security and Antiterrorism Act of 1986".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code, or other applicable law.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board. Upon request, the Inspector General of the Department of State and the Foreign Service may provide assistance to the Board.

(3) EXPERTS AND CONSULTANTS.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303. PROCEDURES.

(a) EVIDENCE.—

(1) UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.—

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

(i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions as apply to other records of the Department of State under section 552(b) of title 5 of the United States Code (relating to freedom of information) shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304. FINDINGS AND RECOMMENDATIONS BY A BOARD.

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad and shall make written findings determining—

(1) whether there are reasonable grounds to believe that the injury, loss of life, or destruction of property with respect to which the Board was convened was security-related; and

(2) whether there is reasonable cause to believe that a breach of duty by an individual described in section 303(a)(1)(B) contributed to such injury, loss of life, or destruction of property.

In making its findings, the Board shall take into account such standards of conduct, statutes, rules, regulations, instructions and other sources as may have been pertinent to the performance of work and official duties.

(b) PROGRAM RECOMMENDATIONS.—The Board shall make recommendations to the Secretary of State as appropriate to improve the efficiency, economy, suitability, or security of any program or operation which the Board has reviewed, particularly recommendations to promote security awareness and individual accountability for security programs.

(c) DISCIPLINARY PROCEEDINGS.—

(1) NOTICE.—Whenever a Board finds reasonable cause to believe than an individual has breached a duty under subsection (a)(2), the Board shall promptly notify the individual concerned. The Board at the same time shall notify the head of the appropriate Federal agency or instrumentality of such finding and recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary proceeding.

(2) RECORDS.—Whenever notice of a finding under paragraph (1) is made, the Board shall transmit to the head of the appropriate Federal agency or instrumentality a certified copy of the record of the pertinent administrative proceeding undertaken by the Board under this title, which shall be part of the official record for all purposes of any disciplinary action against the individual concerned. The head of such agency or instrumentality shall maintain such copy under appropriate safeguards to preserve confidentiality and classification of information. For purposes of section 552(b) of title 5, United States Code (relating to freedom of information), such portion of the copy which corresponds to the portion of the original record which was turned over to the Director of Central Intelligence shall be deemed to be held by the Director.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

SEC. 305. RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

SEC. 401. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated before October 1, 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year:

(A) For "Administration of Foreign Affairs", as follows:

(i) For "Salaries and Expenses", $245,327,000.

(ii) For "Acquisition and Maintenance of Buildings Abroad", $857,806,000.

(iii) For "Counterterrorism Research and Development", $2,000,000.

(B) For "Antiterrorism Assistance", $4,840,000.

(2) Amounts appropriated pursuant to this section are authorized to remain available until expended.

(b) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

(c) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(d) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

SEC. 402. DIPLOMATIC CONSTRUCTION PROGRAM.

(a) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may bid on a diplomatic construction or design project, for which funds are authorized to be appropriated by this title, which has an estimated total project value exceeding $5,000,000.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country the laws or policies of which prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Congress that he has urged such foreign country to permit the use of United States contractors on such projects.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction project, the presence of two or more qualified bidders who are (A) United States persons or are qualified United States joint venture persons and (B) who are submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project;

(D) has performed administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C);

(F) employs United States nationals in more than half of its full-time supervisory positions in the United States and will employ United States nationals in 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) SECURITY CLEARANCE REQUIREMENTS FOR CONTRACTORS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen requirements for security clearances for all contractors and subcontractors involved in any way with a diplomatic construction or design project; and

(2) prohibit access to any design or blueprint relating to such a project by any such contractor or subcontractor without the appropriate security clearance.

SEC. 403. QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction, construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

SEC. 404. COST OVERRUNS.

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 405. EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

(b) SURETY BONDS AND GUARANTEES.—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(c) DISQUALIFICATION OF CONTRACTORS.—No person doing business with Libya may be eligible for a contract under this Act.

SEC. 406. TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

SEC. 407. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: "In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

SEC. 408. REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501. REWARDS FOR INFORMATION RELATING TO INTERNATIONAL NARCOTERRORISM AND DRUG TRAFFICKING.

(a) INTERNATIONAL TERRORISM.—Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended to read as follows:

"(a) The Secretary of State may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country of any individual for committing, or for conspiring or attempting to commit, an act of international terrorism; or

"(2) the prevention, frustration, or favorable resolution of an act of international terrorism if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States.".

(b) INTERNATIONAL NARCOTERRORISM AND DRUG TRAFFICKING.—Section 36 of such Act is further amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country of any individual for committing outside the United States any narcotics-related offense if such offense involves or is a significant part of conduct that involves—

"(A) a violation of the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for the purpose of the Controlled Substances Act);

"(B) an act of narcoterrorism, which includes the killing or kidnapping outside the territorial jurisdiction of the United States of—

"(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States drug laws or the im-

plementing of United States drug control objectives; or

"(ii) a member of the immediate family of any such individual on account of that individual's official duties in connection with the enforcement of United States drug laws or the implementation of United States drug control objectives; or

"(C) an attempt or conspiracy to do any of the acts described in paragraph (1) or (2); or

"(2) the prevention or frustration of an act described in paragraph (1).".

(c) FUNDING FOR REWARDS.—Section 36(g) of such Act, as redesignated by subsection (b)(1), is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", up to $2,000,000 of which may be used for rewards for information described in subsection (b)(1)(A) or (B). In addition to the amount authorized by the preceding sentence, there are authorized to be appropriated $10,000,000 for fiscal year 1987 for 'Administration of Foreign Affairs' for use in paying rewards under this section, up to $5,000,000 of which may be used for rewards for information described in subsection (b)(1)(A) or (B).".

(d) CONFORMING AMENDMENT.—Section 36(f) of such Act, as redesignated by subsection (b)(1), is amended by inserting "or (b)" after "subsection (a)".

(e) REPORTS ON REWARDS; DEFINITIONS.—Section 36 of such Act is further amended by adding at the end thereof the following new subsections:

"(h) Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the Congress with respect to that reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid, and shall discuss the significance of the information for which the reward was paid in dealing with those acts.

"(i) The purpose of the rewards under subsection (b) is to assist narcotics law enforcement in the effective arrest and prosecution of major narcotics traffickers and, wherever appropriate, to offer rewards in connection with the killing of, or the attempt to kill, any United States officer or employee, in connection with the performance of narcotics control duties by such officer or employee, or any member of the family of such officer or employee. To ensure that the rewards program authorized by this section, especially subsection (b)(1)(A), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under subsection (b), including procedures for—

"(1) identifying individuals, organizations, and offenses for which rewards will be offered,

"(2) the publication of rewards,

"(3) offering of joint rewards with foreign governments,

"(4) the receipt and analysis of data,

"(5) the payment and the approval of payment, and

"(6) the recommendations of rewards by chiefs of mission to the Secretary of State and the Attorney General,

shall be governed by procedures approved by the Secretary of State and the Attorney General.

"(j) As used in this section—

"(1) the term 'United States drug laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

"(2) the term 'member of the immediate family' includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person to whom the individual stands in loco parentis; and

"(C) any other person living in the individual's household and related to the individual by blood or marriage.".

SEC. 502. COUNTERTERRORISM PROTECTION FUND.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 (22 U.S.C. 2710) the following new section:

"SEC. 39. COUNTERTERRORISM PROTECTION FUND.

"(a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for 'Administration of Foreign Affairs' $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

"(c) DESIGNATION OF FUND.—Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

SEC. 503. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 40 (as so redesignated by section 502 of this Act) as section 41; and

(2) by inserting after section 39 (as added by section 502 of this Act) the following new section:

"SEC. 40. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

"(a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provision of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

"(b) SERVICES SUBJECT TO CONTROL.—The services subject to control under subsection (a) are the following:

"(1) Serving in or with the security forces of a designated foreign government.

"(2) Providing training or other technical services having a direct military, law enforcement, or intelligence application, to or for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

"(c) PERSONS SUBJECT OF CONTROLS.—These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

"(d) LICENSES.—In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

"(e) DEFINITIONS.—

"(1) DESIGNATED FOREIGN GOVERNMENT.—As used in this section, the term 'designated foreign government' means a foreign government that the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979, engages in or provides support for international terrorism.

"(2) SECURITY FORCES.—As used in this section, the term 'security forces' means any military or paramilitary forces, any police or other law enforcement agency (including any police or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

"(3) UNITED STATES.—As used in this section, the term 'United States' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

"(4) UNITED STATES PERSON.—As used in this section, the term 'United States person' means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

"(f) VIOLATIONS.—

"(1) PENALTIES.—Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

"(2) INVESTIGATIONS.—The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

"(g) CONGRESSIONAL OVERSIGHT.—

"(1) REVIEW OF REGULATIONS.—Not less than 30 days before issuing any regulations under this section (including any amendments thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

"(2) REPORTS.—Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the President may find to be relevant to the accomplishment of the objectives of this section.

"(h) RELATIONSHIP TO OTHER LAWS.—The authority granted by this section is in addition to the authorities granted by any other provision of law.

"(i) CONSTRUCTION.—Nothing in this section may be construed to make unlawful any activity conducted by an officer or employee of the United States Government, or any agent thereof, which is properly authorized and conducted in accordance with Federal laws, rules, and regulations, including Executive Orders, governing such activities.".

TITLE VI—FASCELL FELLOWSHIP PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the "Fascell Fellowship Act".

SEC. 602. FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS IN THE SOVIET UNION AND EASTERN EUROPE.

(a) ESTABLISHMENT.—There is established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions formerly held by foreign national employees at United States diplomatic or consular missions in the Soviet Union or Eastern European countries.

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as "Fascell Fellowships".

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a "Fellow") to serve on a short-term basis at a United States diplomatic or consular mission in the Soviet Union or an Eastern European country in order to obtain first hand exposure to that country, including (as appropriate) independent study in Soviet or Eastern European area studies or languages.

(d) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in Soviet or Eastern European area studies or languages and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) WOMEN AND MEMBERS OF MINORITY GROUPS.—In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

SEC. 603. FELLOWSHIP BOARD.

(a) ESTABLISHMENT AND FUNCTION.—There is established a Fellowship Board (hereafter in this title referred to as the "Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) MEMBERSHIP.—The Board shall consist of 9 members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3) An officer or employee of the United States Information Agency, designated by the Director of that Agency.

(4) Six academic specialists in Soviet or Eastern European area studies or languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) MEETINGS.—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) COMPENSATION AND PER DIEM.—Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 604. FELLOWSHIPS.

(a) NUMBER.—Up to 100 fellowships may be provided under this title each year.

(b) REMUNERATION AND PERIOD.—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this title, and

(2) the period of the fellowship, which shall be between one and two years.

(c) TRAINING.—Each Fellow may be given appropriate training at the Foreign Service Institute or other appropriate institution.

(d) HOUSING AND TRANSPORTATION.—The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) EFFECTIVE DATE.—Subsection (d) of this section shall not take effect until October 1, 1986.

SEC. 605. SECRETARY OF STATE.

(a) DETERMINATIONS.—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission in the Soviet Union or Eastern Europe and the position in which each will serve.

(b) AUTHORITIES.—Such service shall be in accordance with the relevant authorities of the Foreign Service Act of 1980, the State Department Basic Authorities Act of 1956, and title 5 of the United States Code.

(c) FUNDING.—Funds appropriated to the Department of State for "Salaries and Expenses" shall be used for the expenses incurred in carrying out this title.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. PEACE CORPS AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Peace Corps Act is amended by amending subsection (b) to read as follows:

"(b) There are authorized to be appropriated to carry out the purposes of this Act $130,000,000 for the fiscal year 1986 and $137,200,000 for the fiscal year 1987.".

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to ask the Senate's consideration of the Diplomatic Security and Antiterrorism Act of 1986. This legislation is a response to the immediate need to improve the security of our diplomatic posts overseas and to make management and operational changes in the Department of State which will strengthen our ability to fight the threat of terrorism.

In the past few years, we all have witnessed the deadly consequences of international terrorism. We know that much of this terrorism is aimed directly at America and American interests. American diplomatic missions, the people who work in them and their families are the clearest symbols of American interests overseas and are, therefore, prime targets for international terrorists.

I think it is particularly important to point out that, while most people associate American missions abroad with the Department of State, in fact more than 70 percent of the personnel of the average Embassy are employed by other U.S. Government agencies. About 30 U.S. Government agencies have employees overseas representing American foreign policy interests, analyzing international economic developments, promoting the export of American products and services, and serving in a wide range of other duties.

The U.S. Government has about 17,000 Americans serving overseas in diplomatic missions and another approximately 31,000 foreign nationals. These numbers do not include personnel at military bases who are not included in the scope of the Diplomatic Security Act. Therefore, the State Department is responsible for the protection of about 48,000 employees plus the families of Americans assigned overseas.

Last year, a distinguished panel of experts headed by Adm. Bobby Inman made an extensive study of the security problems facing American interests overseas. The report of the Inman panel contained a number of recommendations to improve diplomatic security overseas as well as security for foreign diplomats in the United States.

Most of these recommendations have been incorporated in the administration's plan for a new Diplomatic Security Program. In February of this year, the State Department presented Congress with a request for a supplemental authorization of $4.4 billion over 5 years, beginning with the current fiscal year.

The administration's original request for a Diplomatic Security Program was contained in S. 2015 which I introduced earlier this year. The House passed H.R. 4151, which has the Diplomatic Security Programs and seven other titles on subjects related to various aspects of terrorism. The Diplomatic Security Program should be the focus of our attention at this time and, therefore, the legislation before us today is an amendment to H.R. 4151 and concentrates on the administration's original request.

Mr. President, the Committee on Foreign Relations has studied this authorization request for more than 3 months. We have talked with State Department officials, officials of other Government agencies represented overseas and representatives of private industry knowledgeable about the costs and procedures of the Overseas Security Program.

On May 14, the committee held a markup on the Diplomatic Security Act and voted to report the bill which is before the Senate today. This legislation has several key components:

It authorizes a total of $1,107,821,000 in supplemental funds for fiscal years 1986 and 1987.

It establishes within the Department of State a Bureau of Diplomatic Security to be headed by an Assistant Secretary with overall authority, to manage the worldwide Security Program.

It establishes a Diplomatic Security Service as a professional career path in the Department of State.

It establishes an Accountability Review Board to investigate breaches of security where there are injuries, loss of life or serious destruction of property.

The bill also contains strong preference for the use of American companies in the construction projects and it bars from these projects any company doing business with the Government of Libya.

The committee considered numerous pieces of legislation dealing with the broader issue of terrorism. Three sections were included in the bill that were contained in the House-passed measure with slight modifications.

One section adds a new provision to the current terrorism rewards-for-information fund to permit rewards leading to the arrest and prosecution of major narcotics offenders for narcotics-related offenses committed overseas. Included in these offenses are the killing or kidnaping, or the attempted killing or kidnaping, of U.S. personnel and their families because of their connection to U.S. enforcement and control programs. An additional $5 million is authorized for the rewards-for-information program for 1987.

A second terrorism-related section permits the Secretary of State to regulate the provision of technical services to the law enforcement or security forces of countries defined as supporters of terrorism under the terms of the Export Administration Act. This provision narrows an original administration proposal which arose out of the Wilson-Terpil case and created some controversy by its vague definition of supporters of terrorism.

The last terrorism-related section in the bill permits the Secretary of State to make reimbursements for the protection expenses of those who have provided information relating to terrorist incidents outside the United States. This section augments the Administration of Justice Program by providing protection to witnesses in those instances where the United States has lent special assistance to the investigation and prosecution of a case.

This bill also has a provision for a fellowship program for United States citizens to work at American diplomatic missions in the Soviet Union and Eastern Europe for 1 or 2 years. This program, named after House Foreign Affairs Committee Chairman DANTE FASCELL, would serve two important purposes:

First, it would allow American students, teachers, and scholars to study the Soviet Union and Eastern European countries firsthand, a valuable resource to the United States.

Second, the Americans in this program would replace some Soviet and East bloc nationals working in our Embassies, thus increasing the overall security at these posts.

The cost of this program would come from the State Department's salaries and expenses account and no additional authorization is necessary.

Finally, this bill also has an amendment, added in the markup, to authorize an additional $7.2 million for the Peace Corps in fiscal year 1987. This amendment, which increases the Peace Corps' total authorization to $137.2 million, was proposed by Senator DODD and cosponsored by Senator KERRY and Senator EVANS. The objective of the amendment is to allow the Peace Corps to begin implementation of a 6-year plan to increase its volunteer force which Congress requested in Public Law 99-83 in 1985.

Mr. President, I would like to provide some additional details on the budget and the process by which the committee arrived at the authorization levels. As I said earlier, we studied the budget request in great detail. The budget submission provided by the State Department is more than 300 pages and each line item has a narrative to describe the particular expense and the reason for the request.

In examining the State Department request, we considered two main components: the total amount—$4.4 billion—and the period of authorization—5 years.

The committee decided that a shorter authorization period was necessary in order to fulfill our responsibility to those who represent our Government overseas and taxpayers here at home to see to it that the money is spent in the most efficient and effective manner. During the coming year, we will be examining the budget very closely to monitor the State Department's performance with these funds and funds received in previous years. Then, during the next, regular 2-year authorization process, we will respond to the situation and the needs at that time.

Another reason for the shorter authorization period is that this program is much larger than anything the State Department has undertaken before and we want to be in a position to positively influence the Security Program should changes be necessary.

As to the amounts of specific authorization, the funds are intended for the following four categories:

For salaries and expenses, $243,175,000. In this category, the committee has made clear to the Department of State that the money should be spent on personnel and programs directly related to security. Nonessential items were cut back or eliminated from this authorization. This category has such important items as perimeter security for American missions, Marine guards, Seabees and security training. Also included here is money for counterintelligence and communications security, an area which the Inman Panel identified as needing special attention and which the committee agrees should have high priority.

For the acquisition and maintenance of buildings abroad, $857,806,000. With these funds the State Department will undertake the construction or renovation of diplomatic posts overseas and incorporate into these buildings new security systems and equipment. The cost of these individual projects is high because of the unique security requirements of American diplomatic posts and the need, in some cases, to acquire additional land to set back the buildings 100 feet from main roads, as security experts and Inman Panel recommend. In this category again, we have made it clear to the State Department that it should not spend this money on nonessentials and it should be very, very careful in its planning of new buildings to avoid costly designs that contribute nothing to security or basis building needs.

For counterterrorism research and development, $2,000,000. The technology which terrorists have used against our interests is not static but will change and become more dangerous. Therefore, we must continue our own research to anticipate and negate whatever threats we will face in the future.

For antiterrorism assistance, $4.840,000. This money is for the continuation of a program that provides training and equipment to help foreign governments improve their antiterrorist capabilities. This program also acts as an incentive to other countries to cooperate with the United States and other friendly governments in combating international terrorism.

Mr. President, the Committee on Foreign Relations had two objectives in formulating this supplemental authorization. The committee wanted to authorize a program which will substantially increase our ability to protect our people and our interests overseas. The committee also wanted to authorize a program which accommodates the tight budget situation which we are all facing today.

This supplemental authorization achieves both of those objectives and I urge my colleagues to vote in favor of the Diplomatic Security and Anti-Terrorism Act of 1986.

The PRESIDING OFFICER (Mr. GOLDWATER). The Senator from Rhode Island.

Mr. PELL. Mr. President, I join the chairman in urging the Senate to pass the Diplomatic Security and Antiterrorism Act of 1986. This bill, H.R. 4151, would authorize an appropriation of $1.1 billion for fiscal year 1986 and 1987 to initiate the administration's 5-year $4.4 billion security enhancement program. This project is designed primarily to finance the acquisition and construction of over 70 new chanceries, consulates, or residences and the renovation of an additional 170 posts. In addition to this ambitious construction program, the administration, through this legislation, hopes to:

First, consolidate all of the overseas diplomatic security responsibilities in the Department of State and create a new bureau for this purpose;

Second, establish a board of inquiry and accountability to review security breaches and to recommend action against negligent personnel;

Third, increase the protective services provided by the Department of State for foreign official visitors and diplomats within the United States;

Fourth, strengthen the residential security provided for U.S. employees at high threat diplomatic posts;

Fifth, increase the staff and training of security personnel in the State Department; and

Sixth, provide additional and improved technical security and communications equipment to reduce the vulnerability of U.S. diplomatic missions to electronic penetration.

Mr. President, there is no question that we must do all that is possible to provide adequate protection for American personnel abroad. Americans are being attacked in larger numbers and in increasingly brutal and indiscriminate ways. Since 1975, there have been a large number of citizens killed in 243 attacks against U.S. Embassies and personnel abroad.

In fact, more ambassadors have been assassinated since World War II while serving our Nation abroad than all of our generals and admirals killed in the same period as a result of two wars from enemy action. American diplomats deserve better protection.

I realize the numbers involved may not seem large in scope. In fact, since 1968, nearly 1,000 times as many Americans were killed as the result of drunk driving as of terrorists, but the very fact of Americans working for their Government being at risk I think is a fact that we should prevent.

In this regard, with regard to the total number of casualties, I ask unanimous consent to insert into the RECORD at this point a table prepared by the Department of State on U.S. casualties caused by international terrorism, 1968-85.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CASUALTIES CAUSED BY INTERNATIONAL TERRORISM, 1968–85

[U.S. Department of State, Office for Counter-terrorism and Emergency Planning]

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
United States																		
Total dead	5	3	6	4	23	23	42	80	7	4	9	15	9	7	8	271	11	28
Total wounded	10	3	14	23	33	2	17	78	32	7	21	21	17	40	11	115	31	160
Total U.S. casualties	15	6	20	27	56	25	59	96	39	11	30	36	26	47	19	386	42	188

Mr. PELL. In July 1984, in response to the increasingly visible problem of state-sponsored terrorism, Secretary Shultz created an Advisory Panel on Overseas Security, chaired by Adm. Bobby Inman. Other members of the panel were Senator WARREN RUDMAN of New Hampshire; Ambassador Anne Armstrong, chairperson of the President's foreign intelligence advisory board; Congressman DAN MICA from Florida; Lt. Gen. D'Wayne Gray, U.S. Marine Corps; Ambassador Larry Eagleburger; Robert McGuire, chief executive officer of Pinkerton's Inc.; and Victor Dikeos, former director of security and of the multinational force in Rome.

This panel was created to review our security posture and to chart a course of action for the U.S. Government to take in better defending our personnel and buildings abroad. Our current defenses were simply inadequate. A more progressive plan to combat the scourge of terrorism was needed.

In June 1985, the Inman panel submitted its comprehensive study and 109 recommendations. Most of these recommendations which cover a wide range of physical and technical security, intelligence, organization and diplomatic efforts to combat terrorism were accepted by the Department of State. H.R. 4151 is designed to implement the Inman recommendation. In addition to the Department, many other agencies with personnel and interests abroad contributed to the development of this legislation.

This bill has broad bipartisan support. It passed the Democratic House by a vote of 389 to 71. Therefore, I urge my colleagues to support this bill. The lives of Americans working abroad may depend upon it.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of this legislation, now pending on the floor, to provide and enhance diplomatic security for our personnel serving abroad. This proposal flows from a series of recommendations made by the Advisory Panel on Overseas Security, which was convened by the Secretary of State following the Beirut bombings and chaired by Adm. Bobby Inman, now retired and, in my opinion, one of the most able men we have had in public service in this country in recent times. After a very thorough review of the problem, the Inman panel recommended a series of steps, well over 100, that could be taken to improve security.

While the panel noted that it was not possible to prevent all attacks upon our overseas facilities, it did detail a number of steps that could be taken to bring about significant improvement in the situation, including increased professionalism on the part of State Department security personnel, a strict accountability in cases involving a significant loss of life, and a major construction program for upgrading and building new diplomatic facilities overseas.

On the basis of the Inman panel recommendations, the administration submitted recommendations to Congress. The House of Representatives has acted and now it is time for the Senate to act.

Given the parliamentary situation, I will not propose an amendment on the floor, but I regret that an amendment I offered in the committee, which would have increased the authorization level of this bill by about 25 percent, was defeated on a close vote of 7 to 10 within the committee. That amendment was geared to provide an authorization sufficient to fund all the items which the Department of State had included within a band 1 recommendation.

The Department had originally submitted a very broad request to Congress. They were asked to reexamine their request very carefully, to consider it, to put priority items first; in the process of making that judgment, they came up, in effect, with band 1 recommendations. To provide an authorization for that band would have required an increase of about 25 percent over what is contained in the bill. I made such a proposal in the committee. It was not adopted—regrettably, in my view, because I do think this is an extremely important program, one that Congress needs to stand behind.

We had the benefit of the State Department's judgment as to what were the priority items and I thought it better to accept their evaluation items rather than for Congress, in effect, to substitute its own judgment. I am hopeful that when this matter goes to conference, we will be able to arrive at a figure that rests upon some solid basis for meeting the recommendation from the executive branch to Congress as to the authorization that is absolutely necessary. It seems to me that when the executive branch is really pushed to provide their top priorities, as was done with respect to this band 1 recommendation, Congress ought to go along with it.

This is a program with which we should be penny-wise, because I believe we will end up running a very high risk: We will not only be pound-foolish in terms of the expenditure of money, but lives will be at risk.

The fact of the matter is that our diplomatic personnel serving in overseas posts are probably as much at risk as anyone serving in the U.S. Government under current circumstances. The figures on the number of diplomatic personnel who have been killed or injured over the last decade, as we confront the problem of international terrorism, are sufficient to cause not only concern but alarm. I think it is very important that we are now

moving in a forthright way to deal with this problem.

The pending legislation seeks to do that. It does not go quite as far as I think it should have gone. I am hopeful that when we resolve the differences between the House and the Senate, we will be able to do better. This is an extremely important program. I know Members appreciate that.

□ 1220

There is an understandable tendency to focus on this program and its importance in the immediate aftermath of a particular incident, of a loss of life or an attack. We must also take the longer view. It is very important for Members of Congress and indeed the Nation to comprehend and appreciate the importance of the very well thought out and considered recommendations of the Inman panel, Congress and the country must stand behind the program on a sustained, continuing basis in order to do what we can to enhance diplomatic security and to provide the maximum protection possible we can for our personnel.

Mr. President, I yield the floor.

AMENDMENT NO. 2172

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. LEAHY, proposes an amendment numbered 2172.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, in line 15, delete "$245,327,000" and insert "$283,104,000."

On page 108, between lines 20 and 21, insert the following new subsection:

"(e) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by paragraph (a)(1)(A)(i), $34,537,000 shall be available only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

Mr. DURENBERGER. Mr. President, I rise in my capacity as chairman of the Senate Select Committee on Intelligence to propose the amendment before us. I ask unanimous consent that in addition to my colleague, the Senator from Vermont [Mr. LEAHY], who is the ranking member and the vice chairman of the Intelligence Committee, Senators COHEN, MURKOWSKI, HECHT, MCCONNELL, and BENTSEN also be included as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I will be very brief, I will begin by complimenting my colleagues on the Foreign Relations Committee for the difficult task they have undertaken over the last year-and-a-half to deal with the issues of diplomatic and embassy security, not an easy task, and always a task that has resource parameters pressing. So I compliment the chairman of the committee and the ranking member of the committee for the excellent job that they and members of the Foreign Relations Committee have done.

Mr. President, the Diplomatic Security Act is an incredibly important measure. In the wake of the Beiruit bombings and numerous other terrorist attacks, our willingness to create a Bureau of Diplomatic Security and to authorize funds for better security is a crucial, tangible commitment of Congress to United States interests around the world. Without this concrete commitment to security, our Nation will be unable to maintain its active role in the world's capitals and centers of commerce.

Just as we support the Nation's defense, so must we now support it diplomatic security. Our diplomatic presence abroad is truly the first line of our defense. It enables us to seize opportunities for cooperation and for the amicable settlement of disputes with others. It saves us from having to resort to military measures, and it paves the way for the efficient use of our armed forces when that is necessary. We cannot—and must not—do without an active, assertive diplomatic presence overseas.

While much of the authorization in this bill is to improve the physical security of U.S. diplomatic facilities against the terrorist threat, some of the funding covers the important need for technical protection against hostile intelligence services. As our Embassies have adopted modern methods of communication, our adversaries have adopted modern methods to penetrate those communications. If our secrets are not to be compromised, we must improve our defenses against those hostile efforts. We must not scrimp on this protection. The compromise of sensitive information, whether it concerns secret negotiations instructions or embassy security plans, can threaten American interests as severely as any terrorist bomb.

Indeed, it is especially important that we appreciate the inherent link between technical security and security against terrorism. Counterterrorist plans do not emerge out of thin air; they are written, discussed, and may well be stored in computers. Seemingly innocent information from people's conversations, communications or data bases can be of tremendous help to terrorist plotters or to the states that support them. And frankly, no physical security system if foolproof. It is of the utmost importance, then, to safeguard the information about our physical security efforts so that terrorists will not discover ways around them. The technical security programs that this amendment supports are a vital link in the chain of defense against terrorist attacks on U.S. facilities overseas.

The Foreign Relations Committee has subjected this bill to intense scrutiny and significant reductions. I can well appreciate the need, in a very difficult year from the budgetary standpoint, to pare down expensive building proposals. But these technical security programs are relatively low-budget items that are well worth the funds they require. They are needed now, and they can be implemented now; they are not dependent upon the pace of new Embassy construction; and they can all be accommodated within the levels prescribed in the report of the committee of conference on the State Department supplemental appropriation. Now that the conference report on the urgent supplemental has adopted a "salaries and expenses" figure that would permit full funding of these programs, we on the Intelligence Committee strongly urge our colleagues to earmark some of that figure for these programs.

There are three technical security areas that merit this special attention: protection of classified office equipment; expansion of information systems security; and hiring of U.S. citizens to manage and operate Embassy computers in high-threat locations. This amendment would provide $34.6 million for these programs, compared to the $12.6 million recommended by the Foreign Relations Committee. The amendment would delete another $7.7 million requested by the State Department that could not reasonably be used by these programs in fiscal year 1987.

These programs all respond to concerns raised by Admiral Inman's Advisory Panel on Overseas Security, and also by the Select Committee on Intelligence in our yearlong study of U.S. counterintelligence and security programs. Several of these programs grow out of efforts that were supported by the $35 million supplemental appropriation that Congress enacted last year at the urging of the Intelligence Committee.

Mr. President, security has long been the stepchild of our bureaucracies. It is inevitably seen as a sidelight, taking resources away from major missions and making people's lives more difficult. But security is essential, and events of recent years have made that terribly clear. In the past year, decades of bureaucratic inertia have been overcome and the Government has begun programs to improve the security of both persons and programs.

Now we must keep up that momentum. Programs that we have called for are beginning to appear; now we must fund them and support them. The payoffs will be real but invisible. They will be terrorist plots that fail, or that are rejected by the terrorists themselves; they will be intelligence coups that our enemies never achieve; they will be state visits that are unmarred by security problems, buildings that are neither bombed nor broken into, and secrets that remain secret.

This is a silent war, and the technical security programs that this amendment supports are a crucial movement of forces in that campaign. I urge my colleagues of the Senate to enlist in this campaign by supporting this amendment.

Mr. President, I also have a detailed description of the programs that this amendment supports. I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

PROTECTION OF CLASSIFIED OFFICE EQUIPMENT

Emanations from electronic equipment can be intercepted and converted from electronic impulses into human language. In the past, recognition of this vulnerability has led to extraordinary physical and electronic protection for communications centers and communications equipment at overseas posts. Recent events have highlighted another important area of vulnerability: interception of emanations from typewriters and office equipment that are used to process classified information. To address this problem, the State Department has developed a coordinated program to protect classified office equipment.

The equipment protection program has four parts: product certification; secure transportation with State Department couriers; secure handling of repair jobs; and regular inspections of both equipment and security practices. New technical equipment is required in each of these areas, as well as more couriers, inspection personnel, and contracts for secure repair of the office equipment. The State Department requested $33,287,000 over two years for this program; we estimate that they can usefully spend $28,227,000 in fiscal year 1987. The Foreign Relations Committee would authorize only $10,646,000.

EXPANSION OF INFORMATION SYSTEMS SECURITY

The Department of State and other foreign affairs agencies are rapidly increasing their use of computers and word processors overseas. Admiral Inman's Advisory Panel on Overseas Security notes that this increase is being accompanied by a documented increase in the hostile electronic intelligence threat at those overseas facilities. Currently, however, there are few State Department personnel available to work on this problem, and none at the Regional Administrative Management Centers to which embassies typically turn first for help in managing office systems.

The Department of State proposes to assign six computer security personnel and one administrator to its three Regional Administrative Management Centers, and two computer security people plus an administrator for headquarters. They requested $1,872,000 for two years, but could usefully spend $764,000 in fiscal year 1987. The Foreign Relations Committee would authorize only $345,000.

U.S. MANAGERS AND OPERATORS OF COMPUTERS AT HIGH-THREAT LOCATIONS

The State Department operates large minicomputer systems and small office information (word processing) systems in many overseas locations. While these are unclassified systems, some contain sensitive information, particularly when the information in several files can be accessed and analyzed in the aggregate. Unclassified systems at high technical threat locations are especially vulnerable, and foreign nationals are currently involved in the management and operation of systems in those locations. The State Department has designated certain countries as high technical threat locations based upon reported efforts of other countries to penetrate electronic systems in those locations.

Admiral Inman's Advisory Panel on Overseas Security recommends that no foreign national employee have access to an automated information system at any U.S. Embassy, and the State Department proposes at least to eliminate such foreign nationals as managers and operators of the equipment in high threat areas. State Department requested $7,124,000 for this program over two years, and we estimate that they could usefully spend their full FY 1987 request of $5,546,000. The Foreign Relations Committee would authorize only $1,578,000.

Mr. LUGAR. Mr. President, I rise in support of the amendment from the distinguished chairman of the Intelligence Committee. The Foreign Relations Committee and the Intelligence Committee have consulted with regard to the wisdom of this amendment and come to a unanimous point of view that it is in the best interest of this legislation and therefore we are prepared to accept the amendment on this side.

Mr. PELL. Mr. President, I concur in the view of our chairman. I think it is a good amendment. It is being joined by both the Intelligence and Foreign Relations Committees. However, before acting on it, I know that my colleague, the Senator from Vermont [Mr. LEAHY], would like to comment on it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the call of the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am delighted to cosponsor this amendment with my distinguished colleague, the chairman of the Intelligence Committee, Senator DURENBERGER. I see in the chair the distinguished senior Senator from Arizona and former chairman of the Senate Intelligence Committee. I know both of my colleagues are well aware of the security considerations reflected in this amendment. The Durenberger-Leahy amendment to the Diplomatic Security Act would earmark $34,537,000 in the diplomatic security bill for three very important technical security programs. Currently, the bill provides only $12½ million for these programs. Our amendment earmarks an additional $21 million, almost $22 million for technical security improvements in our Embassies. The security of our Embassies and consulates abroad is a critical matter for all Americans, certainly to any of those who have visited abroad. It has been one of the first things mentioned to me by our ambassadors or our security people. It is important for those who serve our country abroad, for those who use American facilities when they travel and really for each of us who care about America's ability to pursue an effective foreign policy. We have to protect our facilities abroad so that we can continue to influence and assist and do business with other people in the world. We are the preeminent nation in the world. We have to be able to carry out our responsibilities worldwide.

In an age of modern terrorism, it is not enough to bar the doors or to buttress walls or to hire more guards. Terrorists, and those who aid them, especially when it is State sponsored terrorism, can and do subject U.S. facilities to intensive surveillance, enormous surveillance. They seek to understand our security measures to determine their weak points. If we fail to protect the information about our security practices, we make it that much easier for terrorists to attack us.

Now, the State Department, responding to the recommendations of Admiral Bobby Inman's Advisory Panel on Overseas Security, has proposed some excellent programs to improve the security of communications and computers in U.S. Embassies. These programs are aimed at making sure that the typewriters and word processors handling classified information do not fall into hostile hands. Certainly, as vice chairman of the Intelligence Committee, I understand the concerns we have about that, as do the two distinguished Senators, the Senator from Minnesota and the Senator from Arizona.

□ 1230

These programs are aimed at making sure that the typewriters and word processors handling classified information do not fall into hostile hands. They will put Americans in charge of the computers in U.S. Embassies, rather than leaving reams of sensitive information in the hands of foreign employees who may actually be hostile intelligence agents, and oftentimes are, and they will provide computer security experts, both at headquarters and in regional communications support centers. These are the most basic of security measures. They can be implemented in our current Embassies instead of waiting for new ones to be built, and they can be funded without

adding to the overall total authorized in this bill. They deserve our support.

Today we are going to vote on authorizing $1.1 billion for overseas security through fiscal year 1987. The $34,537,000 that our amendment earmarks for high-priority technical security programs is only about 3 percent of the bill. I believe that the State Department can squeeze that amount out of its construction budget. Surely this is not too high a price to enhance technical security in those new embassy buildings this bill will fund.

Let us make sure that our computers and word processors are in the hands of Americans, not hostile agents, as they have been many times in the past. The amount of money we are talking about is a tiny fraction of what we would lose if we do not do that.

As a member of the Appropriations Committee, I emphasize that our amendment is within the figures agreed to by the conference committee on the urgent supplemental appropriation. As a concerned citizen, I am convinced that this sign of our determination to strengthen technical security is a vital part of the effort to improve our security against hostile intelligence services and terrorist organizations. I urge the floor managers to accept this amendment and my fellow Senators to support it.

Mr. DURENBERGER. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2172) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2173

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. DENTON, and Mr. DECONCINI, proposes an amendment numbered 2173:

At the appropriate place in the bill add the following new section: That (a) paragraph (3) of subsection (b) of section 112 of title 18, United States Code, is amended by striking out "but outside the District of Columbia and".

(b) The Act entitled "An Act to protect foreign diplomats and consular officers and the buildings and premises occupied by them in the District of Columbia", approved February 15, 1938 (52 Stat. 30; D.C. Code 22-1115 and 1116) is repealed.

Mr. GRASSLEY. Mr. President, I thank Senator DECONCINI and Senator DENTON for cosponsoring this amendment with me.

This amendment is a product of legislation that Senator DECONCINI and I recently introduced, which was S. 2508. This would repeal a District of Columbia Code, and the section number is 22-1115. This local law for the District of Columbia makes it a crime to congregate within 500 feet of an Embassy and to refuse to disperse when ordered to do so by the police.

In effect, S. 2508 would replace the local law with a more recent and more comprehensive congressional statute codified in the Federal criminal law, and that was put on the books in 1972. The Federal statute protects foreign diplomats in all 50 States in this country, such as New York, where the headquarters of the United Nations is, and the home of many foreign diplomats of ambassadorial rank. This 1972 law prohibits activity within 100 feet—as compared to the 500 feet of D.C. law—of a diplomatic facility when it is designed to threaten, harass, coerce, or intimidate those entering or those leaving such a facility.

Congress did not extend this law to the District of Columbia, because it was said at that time that the District already had sufficient law, and it was evidently thought to be similar to this 1972 law.

However, the fact is this: The District of Columbia law is in no way similar. Unlike the Federal law, D.C. law prohibits more than two people from standing in front of an Embassy. On its face, this law, it seems to me, infringes upon our constitutional right of freedom of speech and freedom of assembly.

Moreover, we have had selective enforcement of the D.C. statute. That has resulted in the arrests of peaceful demonstrators—arrests that have taken these people, so arrested, through an ordeal of prosecution, trial, sentence, and, in some cases, even imprisonment.

It is grossly offensive to our constitutional values in this country to subject a U.S. citizen to prosecution simply because he or she stands peacefully on a public street holding a sign that might say something like "Russia Get Out Of Afghanistan," or have the word "Solidarity" on it, or have the words "Apartheid Is Evil."

There is no reason why professional diplomats in the District of Columbia need more protection from seeing such demonstrations than, say, those located at the consulates in New York or Chicago or Los Angeles.

What I have sent to the desk is, of course, the contents of S. 2508 in amendment form. Its adoption will ensure uniform treatment of Embassy property and personnel, while at the same time it ought to protect important constitutional rights of U.S. citizens.

Mr. President, the bill I have referred to, S. 2508, was favorably reported recently by the Security and Terrorism Subcommittee of the Judiciary Committee. That committee is chaired by our colleague Senator from Alabama [Mr. DENTON], and I thank him for his favorable consideration and the unanimous approval that this subcommittee gave to our bill. It also enjoys the sponsorship of Senator DECONCINI and the cosponsorship of Senator DENTON and Senator EAST. In addition, I have heard of no opposition to this proposal.

I defer to Senator DENTON, if he would like to make some comments on this amendment, of which he is a cosponsor.

Mr. DENTON. Mr. President, I thank my distinguished colleague from Iowa. I strongly support Senator GRASSLEY's amendment to H.R. 4151. I am proud to be a cosponsor.

As Senator GRASSLEY mentioned, we did clear the bill unanimously 2 days ago in the Subcommittee on Security and Terrorism, which this Senator chairs. In doing so, we noted that there was a bipartisan feeling on the subcommittee that in our haste to improve the security of embassies, the security of airports, the security of Government installations around Washington, and the security of our citizens around the world, we must take careful consideration to avoid infringing on first amendment rights.

Mr. President, this amendment would repeal the District of Columbia law which makes it a crime for more than two people to congregate within 500 feet of an Embassy if they fail to leave when ordered to do so.

By repealing that law, we permit the embassies in Washington, DC to fall under the same law as is applicable in the 50 States, which prohibits activity within 100 feet of a diplomatic facility when it is designed to threaten, harass, coerce, or intimidate those entering or leaving the facility.

Senator GRASSLEY mentioned that the current inconsistency in the law could prohibit peaceful demonstrators from congregating and expressing that which they are entitled to by their first amendment right. I appreciate his efforts in this matter. I should note that Senator DECONCINI has worked closely with me and with Senator LEAHY on this and on a number of legislative initiatives which do improve antiterrorism propensities in our country.

I thank Senator GRASSLEY for his leadership and for yielding to me.

Mr. GRASSLEY. Mr. President, I do not see any of my colleagues desiring to comment on this. It is my understanding that this amendment has been approved by the managers of the bill. If that is true, maybe we can have adoption of the amendment.

Mr. LUGAR. Mr. President, I am pleased to say that the Senate, I think, will be well advised to adopt the amendment of the distinguished Senator from Iowa. He has long been a champion of the peaceful rights of Americans to assemble and make known their points of view. He has brought this issue to the floor on numerous occasions.

Working in cooperation with the distinguished chairman of the subcommittee of the Judiciary Committee, on terrorism, Senator DENTON has done much excellent work in this area.

I believe they have come forward with a suggestion that merits our approval. We are prepared to accept the amendment on our side.

Mr. PELL. Mr. President, personally, I have some doubts here because I visualize not just peaceful demonstrators but overseas where you have angry problems sometimes surrounding our Embassies. I wish to keep them as far away as we can.

I hope if we accept this amendment it will not be used as an example or a precedent for other nations and other parts of the world to let mobs get closer as is the case now.

However, in view of the hard work and efforts of the supporters of the administration, and I believe certainly in America they are absolutely correct, we have no objections on this side.

Mr. GRASSLEY. Mr. President, I comment, first of all, to thank both of the managers of the bill. The chairman and the ranking minority member have been very cooperative, and without their help, I am not sure that this bill would be this far.

Also I wish to comment, because maybe I could alleviate some of the fear that the Senator from Rhode Island expressed about it and the point of view that he made in regard to what might be the situation in a foreign country, this was all taken into consideration in 1972 when the legislation now on the books that we are conforming the D.C. law to was all taken into consideration and was considered to be good public policy at that time.

As far as I know, there is no change of that thought at this point.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2173) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DENTON. Mr. President, before I send an amendment to the desk I would say to the Senator from Rhode Island that I concur with his concern and would further state that my subcommittee will look into the concerns he has raised.

The United States has simply not been confronted with the same kind of incidents which have arisen in foreign countries with respect to their Embassies. If and when it does confront such a threat most assuredly Senator GRASSLEY, I am certain, as well as myself and members of my subcommittee would take another look at this concession to first amendment privileges.

AMENDMENT NO. 2174

(Purpose: To amend the Atomic Energy Act of 1954 to provide for the national security by allowing access to certain Federal criminal history records)

Mr. DENTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama [Mr. DENTON] for himself and Mr. LEAHY proposes an amendment numbered 2174.

Mr. DENTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

NATIONAL SECURITY ACCESS

SEC. (a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding after section 148 the following new section:

"SEC. 149. FINGERPRINTING FOR SECURITY CLEARANCE.—

"a. Every person in the process of being licensed or licensed pursuant to section 103 or 104b to operate a utilization facility shall require that each individual allowed unescorted access to the facility be fingerprinted. All fingerprints obtained by a licensee as required in the preceding sentence shall be submitted to the Attorney General of the United States through a person or persons designated by the Commission in consultation with the Attorney General for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to such person or persons designated by the Commission in consultation with the Attorney General.

"b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its responsibilities to promote the common defense and security and to protect the health and safety of the public.

"c. For purposes of administration this section, the Commission shall prescribe regulations to—

"(1) implement procedures for the taking of fingerprints;

"(2) establish the conditions for use of information received from the Attorney General in order to—

"(A) limit the redissemination of such information; and

"(B) assure that such information is used solely for the purposes provided in this section; and

"(3) provide individuals subject to fingerprinting the right to complete and correct information contained in the criminal history records prior to any final adverse action.".

(b) The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954, as added by this Act, shall take effect upon promulgation of regulations by the Commission as set forth in subsection c. of such section. Such regulations shall be promulgated on or before January 1, 1986.

(c) The table of contents at the beginning of such Act is amended by inserting after the item for section 148 the following new item:

SEC. 149. Fingerprinting for security clearance.".

Mr. DENTON. Mr. President, this amendment to H.R. 4151, which I offer on behalf of Senator LEAHY and myself will incorporate the substance of S. 274, the Nuclear Power Plant Security and Anti-Terrorism Act, a bill which I introduced on January 24, 1985. On September 12, 1985, the Senate Judiciary Committee unanimously reported S. 274 with wide bipartisan support. The bill was then considered by the full Senate on October 3, 1985, and was passed with similar wide bipartisan support.

The purpose of the proposed Nuclear Power Plant Security and Anti-Terrorism Act amendment is to provide for the national security by granting nuclear power reactor licensees access to the national criminal history files of the Federal Bureau of Investigation. By creating a mechanism to conduct a background investigation on any individual having unescorted access to a nuclear power facility, the amendment will help to ensure that only individuals who are reliable and trustworthy have access to critically sensitive areas thereby significantly improving the security of that nuclear power facility.

Most background checks by nuclear power reactor licensees are limited to State and local files as things presently stand. Unfortunately, those files do not include information about an individual's criminal record, if any, from other parts of the country other than the local and the State from which that individual comes and where the powerplant is located. By allowing nuclear power reactor operators to have access to the FBI's criminal history records files, they would be able to obtain more complete criminal histories. That information is an essential element in the determination of who should be granted unescorted access to nuclear facilities.

The Nuclear Regulatory Commission—the Commission—advises that there are 85 U.S. nuclear reactor plants that produce and are licensed for full power. There are five that are licensed for fuel loading and low power. These facilities currently produce approximately 15.5 percent of all our electrical power in this country. As of December 1984, 37 additional plants had been granted construction permits. when those plants become operational, nuclear power will provide approximately 25 percent of all our national electrical power. Although increasingly vital for energy, nuclear facilities can also present a grave danger to the environment and to human life, as Chernobyl dramatically indicates and with little help from saboteurs is a more important danger than that which Chernobyl appears to have presented.